

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

John M. Collier,
Plaintiff,
vs.
Burlington Northern
Railroad Company,
Defendant.

Case No. 90-C 896 *EE*
OF
STIPULATION ~~OF~~ **FILED**

JAN 31 1992 *&*

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

The matter in controversy in the above-caption action having been amicably compromised and settled, it is now stipulated and agreed by and between the parties, by and through their respective attorneys, that the same be, and is, dismissed with prejudice, each party to bear its own costs.

Dated: January 21, 1992

O'CONNOR & HANNAN

By Michael H. Hennen
Michael H. Hennen (#142499)
3800 IDS Center
80 South Eighth Street
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Telephone: (612) 341-3800

and

FRASIER & FRASIER
James E. Frasier
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Tulsa, OK 74101
Telephone: (918) 584-4724

ATTORNEYS FOR PLAINTIFF

Dated: January 27, 1992

WOMBLE & SPAIN

By Jeffrey W. Hastings
Jeffrey Hastings (*W*)
909 Fanin Street
2600 Two Houston Center
Houston, TX 77010
Telephone: (713) 650-6000

ATTORNEYS FOR DEFENDANT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 31 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BILL SANDERS,

Plaintiff,

EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,

Plaintiff-Intervenor

vs.

Case No. 90-C 720 B

MAY'S DRUG STORES, INC.,
an Oklahoma Corporation,

Defendant.

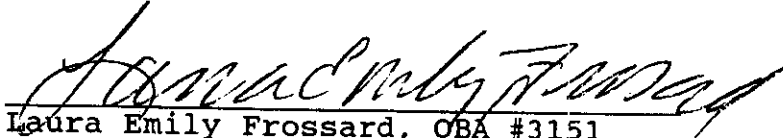
STIPULATION OF DISMISSAL

IT IS HEREBY STIPULATED, by and between counsel for the parties hereto, that:

1. All claims presented by the Plaintiff in his complaint and by the Equal Employment Opportunity Commission in its intervention complaint shall be dismissed with prejudice against May's Drug Stores, Inc. pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

2. Each party shall bear its own costs and attorneys' fees.

Dated January 31, 1992.

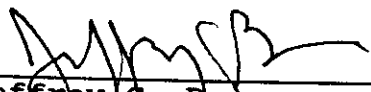


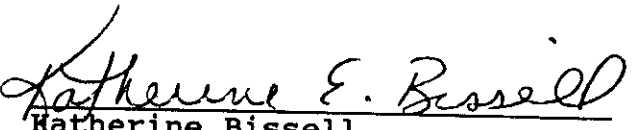
Laura Emily Frossard, OBA #3151
111 W. 5th Street
Suite 520 - Granston Bldg.
Tulsa, OK 74103
(918) 585-1271



D. Gregory Bledsoe, OBA #847
1515 South Denver
Tulsa, Oklahoma 74103
(918) 599-8118

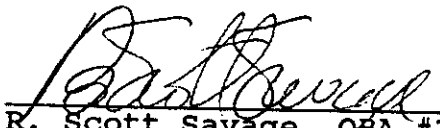
ATTORNEYS FOR PLAINTIFF BILL SANDERS


Jeffrey C. Bannon
Connecticut State Bar No. 301166
Regional Attorney


Katherine Bissell
Texas No. 02356020
Supervisory Trial Attorney

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Dallas District Office
8303 Elmbrook Drive, 2nd Floor
Dallas, Texas 75247
(214) 767-7285
(214) 729-7285

MOYERS, MARTIN, SANTEE,
IMEL & TETRICK



R. Scott Savage, OBA #7926
Terry M. Kollmorgen, OBA #13713
320 South Boston Bldg., Suite 920
Tulsa, Oklahoma 74103
(918) 582-5281

Attorneys for Defendant,
MAY'S DRUG STORES, INC.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

JOHN GORNEY,

Plaintiff,

v.

AMERICAN COMMUNICATIONS, INC.,
TELECONNECT LONG DISTANCE SERVICES
SERVICES & SYSTEMS COMPANY, d/b/a
TELECOM * USA and MCI
COMMUNICATIONS CORPORATION,

Defendants.

Case No. 91-C-162-B

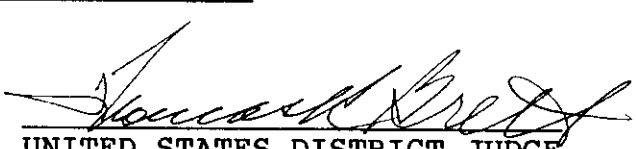
FILED
JAN 31 1992
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER ALLOWING JOINT STIPULATION OF DISMISSAL

The Court having been advised by counsel that the above
action has been settled, it is

THEREFORE ORDERED, ADJUDGED AND DECREED that this cause be
hereby dismissed with prejudice, with each party to bear its own
costs and attorneys' fees.

DATED: Jan 31, 1992.


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 31 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

KYLE R. CHEADLE,

Plaintiff

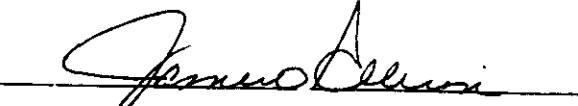
vs

Case No. 91-C-980-E

EDWARD EVANS,

Defendant

IT IS ORDERED that this action is transferred to Judge
H. Dale Cook in the Western District of Oklahoma for disposition,
in compliance with the order entered in the Western District of
Oklahoma on January 9, 1992.


CHIEF JUDGE JAMES O. ELLISON
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 31 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BRYAN DALAN JACQUAY,

Plaintiff,

vs.

GARY MAYNARD, et al.,

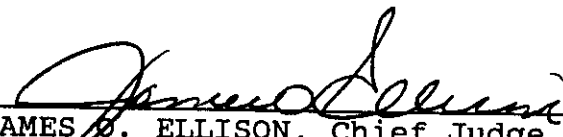
Defendants.

No. 91-C-896-E

ORDER

Plaintiff's Motion to Dismiss the Defendant Oklahoma Board of
Corrections is granted.

ORDERED this 30th day of January, 1992.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

F I L E D

JAN 31 1992

DAWN ROBINSON, A MINOR BY
JAMES ROBINSON, HER FATHER
AND NEXT FRIEND,

PLAINTIFF,

V.

DOMINO'S PIZZA, INC.,
A MICHIGAN CORPORATION,

DEFENDANT.


Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

CASE NO. 91-C-112-B

JUDGMENT

In accordance with the jury verdict rendered January 30, 1992, Judgment is hereby entered in favor of Plaintiff, Dawn Robinson, a minor, by her Guardian, Maura Pollock, and against the Defendant, Domino's Pizza, Inc., in the amount of Seventy Five Thousand Dollars (\$75,000.00), plus pre-judgment interest at the rate of 9.58% per annum (12 O.S. § 727) from the date of December 14, 1990 to January 31, 1992, and post-judgment interest at the rate of 4.02% per annum (28 U.S.C. § 1961) from January 31, 1992 on the total of said principal sum and pre-judgment interest. Costs are assessed against Defendant if timely applied for under Local Rule 6.

DATED this 31st day of January, 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

R.C. CARUTHERS a/k/a RICHARD C.
CARUTHERS; JUNE M. CARUTHERS;
JOHN DOE, Tenant; GULF-WARREN
FEDERAL CREDIT UNION; WELLS
FARGO CREDIT CORPORATION;
COUNTY TREASURER, Tulsa County,
Oklahoma; BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma, RAY K. FACTORY, and
CLYDE V. WARNER,

Defendants.

CIVIL ACTION NO. 90-C-678-E

FILED

JAN 30 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

AMENDED JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day
of January, 1992. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, Ray K. Factory and Clyde V. Warner,
appear by their attorney, Burk E. Bishop; the Defendants, County
Treasurer, Tulsa County, Oklahoma, and Board of County
Commissioners, Tulsa County, Oklahoma, appear by J. Dennis
Semler, Assistant District Attorney, Tulsa County, Oklahoma; and
the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers, June
M. Caruthers, John Doe, Tenant, Gulf-Warren Federal Credit Union
and Wells Fargo Credit Corporation, appear not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendants, R.C. Caruthers a/k/a
Richard C. Caruthers and June M. Caruthers, were served by
publication as evidenced by the Proof of Publication filed

February 20, 1991; Defendant, John Doe, Tenant, was served with Summons and Amended Complaint on September 26, 1990; Defendant, Gulf-Warren Federal Credit Union, acknowledged receipt of Summons and Complaint on August 17, 1990; Defendant, Wells Fargo Credit Corporation, was served with Summons and Amended Complaint on September 13, 1990; Defendant, Ray K. Factory, acknowledged receipt of Summons and Amended Complaint on August 29, 1990; Defendant, Clyde V. Warner, acknowledged receipt of Summons and Amended Complaint on August 29, 1990; Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on August 16, 1990; and Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on August 14, 1990.

The Court further finds that the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers and June M. Caruthers, were served by publishing notice of this action in the Tulsa Daily Commerce & Legal News, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning January 10, 1991, and continuing to February 14, 1991, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers and June M. Caruthers, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any

other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers and June M. Caruthers. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendants served by publication.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on August 29, 1990; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on August 29, 1990; that the Defendants, Ray K. Factory and Clyde V. Warner, filed their Answer on September 18, 1990; and that the Defendants, R.C. Caruthers a/k/a Richard C.

Caruthers, June M. Caruthers, John Doe, Tenant, Gulf-Warren Federal Credit Union and Wells Fargo Credit Corporation, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Sixty-two (62), Block Two (2), Suburban Acres Third Addition to the City of Tulsa, County of Tulsa, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on May 19, 1988, Richard C. Caruthers a/k/a R.C. Caruthers f/d/b/a Caruthers Investment, filed his voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 88-01406-C, was discharged on August 29, 1988, and subject case was closed on June 6, 1989.

The Court further finds that on March 7, 1986, the Defendants, R.C. Caruthers and June M. Caruthers, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$32,000.00, payable in monthly installments, with interest thereon at the rate of ten percent (10%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, R.C.

Caruthers and June M. Caruthers, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated March 7, 1986, covering the above-described property. Said mortgage was recorded on March 11, 1986, in Book 4929, Page 786, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers and June M. Caruthers, made default under the terms of the aforesaid note and mortgage, by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers and June M. Caruthers, are indebted to the Plaintiff in the principal sum of \$31,573.43, plus interest at the rate of 10 percent per annum from July 1, 1988 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$360.66 (\$20.00 docket fees, \$10.36 fees for service of Summons and Complaint, \$330.30 publication fees).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, John Doe, Tenant, Gulf-Warren Federal Credit Union and Wells Fargo Credit Corporation, are in default and have no right, title or interest in the subject real property.

The Court further finds that the Defendants, Ray K. Factory and Clyde V. Warner, have a lien on the property which is the subject matter of this action by virtue of an Affidavit of Judgment from the United States District Court for the Northern District of Oklahoma, Case No. 88-01406-C (Chapter 7), M-1544-B, Adv. No. 88-0167-C, and recorded in the records of Tulsa County, Oklahoma in Book 5199 at Page 134, in the amount of \$7,862.50 in favor of Ray K. Factory, and in the amount of \$7,900.00 in favor of Clyde V. Warner. The Order and Judgment were filed in the United States Bankruptcy Court for the Northern District of Oklahoma on December 12, 1988 and filed in the United States District Court for the Northern District of Oklahoma on July 27, 1989 and recorded in the Tulsa County records in Book 5199 at Page 136. Said liens are inferior to the interest of the Plaintiff, United States of America.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendants, R.C. Caruthers a/k/a Richard C. Caruthers and June M. Caruthers, in the principal sum of \$31,573.43, plus interest at the rate of 10 percent per annum from July 1, 1988 until judgment, plus interest thereafter at the current legal rate of 4.02 percent per annum until paid, plus the costs of this action in the amount of \$360.66 (\$20.00 docket fees, \$10.36 fees for service of Summons and Complaint, \$360.66 publication fees), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance,

abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, John Doe, Tenant, Gulf-Warren Federal Credit Union and Wells Fargo Credit Corporation, are in default and have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendant, Ray K. Factory, have and recover judgment in the amount of \$7,862.50, and that the Defendant, Clyde V. Warner, have and recover judgment in the amount of \$7,900.00.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell with appraisement the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

Third:

In payment of the judgment rendered herein in favor of the Defendants, Ray K. Factory and Clyde V. Warner.

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.


IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.


UNITED STATES DISTRICT JUDGE

APPROVED:


TONY M. GRAHAM
United States Attorney

PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463



BURK E. BISHOP, OBA #813
Attorney for Defendants,
Ray K. Factory and Clyde V. Warner

Judgment of Foreclosure
Civil Action No. 90-C-678-E
PB/esr

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

JERRY W. GOULD a/k/a JERRY
WAYNE GOULD; ELIZABETH GOULD
a/k/a ELIZABETH FERN GOULD;
HORACE J. GRAHAM; KIM S. GRAHAM;
JOHN DOE, Tenant; TONIA GRAY,
Tenant; COUNTY TREASURER,
Tulsa County, Oklahoma; BOARD OF
COUNTY COMMISSIONERS, Tulsa
County, Oklahoma; and VA MEDICAL
CENTER FEDERAL CREDIT UNION,

Defendants.

CIVIL ACTION NO. 90-C-125-E

FILED
JAN 30 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day
of January, 1992. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; the Defendants, County Treasurer, Tulsa County,
Oklahoma, and Board of County Commissioners, Tulsa County,
Oklahoma, appear by J. Dennis Semler, Assistant District
Attorney, Tulsa County, Oklahoma, and claim no interest in the
subject real property; the Defendant, John Doe, Tenant, appears
not, and should be dismissed from this action; and the
Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould; Elizabeth
Gould a/k/a Elizabeth Fern Gould; Horace J. Graham; Kim S.
Graham; Tonia Gray, Tenant; and VA Medical Center Federal Credit
Union, appear not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, Horace J. Graham,

acknowledged receipt of Summons and Complaint on March 2, 1990; Defendant, Kim S. Graham, acknowledged receipt of Summons and Complaint on or about March 5, 1990; Defendant, Tonia Gray, Tenant, was served with Summons and Amended Complaint on June 7, 1990; Defendant, VA Medical Center Federal Credit Union, was served with Summons and Amended Complaint on June 13, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 15, 1990; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on February 15, 1990.

The Court further finds that Defendant, John Doe, Tenant, has not been served herein, as such a person does not exist and should therefore be dismissed as a defendant herein.

The Court further finds that the tenant living at the property who was served with service of process is Tonia Gray, Tenant, and this Defendant is accordingly substituted as a Defendant for Mary Doe, Tenant, who is dismissed.

The Court further finds that the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould and Elizabeth Gould a/k/a Elizabeth Fern Gould, was served by publishing notice of this action in the Tulsa Daily Commerce & Legal News, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning November 19, 1991, and continuing to December 24, 1991, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section

2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould and Elizbeth Gould a/k/a Elizabeth Fern Gould, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the last known addresses of the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould and Elizabeth Gould a/k/a Elizabeth Fern Gould. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, filed his Answer on March 6, 1990; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on March 6, 1990; and that the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould; Elizbeth Gould a/k/a Elizabeth Fern Gould; Horace J. Graham; Kim S. Graham; Tonia Gray, Tenant; and VA Medical Center Federal Credit Union, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Forty (40) in Block Five (5) NORTHGATE
2ND ADDITION, to the City of Tulsa, Tulsa
County, Oklahoma, according to the recorded
Plat thereof.

The Court further finds that on September 12, 1973, the Defendants, Jerry W. Gould and Elizabeth Gould, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, their mortgage note in the amount of \$11,500.00, payable in monthly installments, with interest thereon at the rate of 4.5 percent (4.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Jerry W. Gould and Elizabeth Gould, executed and delivered to the United

States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated September 12, 1973, covering the above-described property. Said mortgage was recorded on September 14, 1973, in Book 4088, Page 126, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould and Elizabeth Gould a/k/a Elizabeth Gould a/k/a Elizabeth Fern Gould, made default under the terms of the aforesaid note and mortgage by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould and Elizabeth Gould a/k/a Elizabeth Fern Gould, are indebted to the Plaintiff in the principal sum of \$7,527.15, plus interest at the rate of 4.5 percent per annum from January 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$297.01 (\$20.00 docket fees, \$15.36 fees for service of Summons and Complaint, \$261.65 publication fee).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould; Elizabeth Gould a/k/a Elizabeth Fern Gould; Horace J. Graham; Kim S. Graham; Tonia Gray, Tenant; and VA Medical Center Federal Credit Union, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendants, Jerry W. Gould a//a Jerry Wayne Gould and Elizabeth Gould a/k/a Elizabeth Fern Gould, in the principal sum of \$7,527.15, plus interest at the rate of 4.5 percent per annum from January 1, 1989 until judgment, plus interest thereafter at the current legal rate of 4.02 percent per annum until paid, plus the costs of this action in the amount of \$297.01 (\$20.00 docket fees, \$15.36 fees for service of Summons and Complaint, \$261.65 publication fees), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Jerry W. Gould a/k/a Jerry Wayne Gould; Elizbeth Gould a/k/a Elizabeth Fern Gould; Horace J. Graham; Kim S. Graham; John Doe, Tenant; Tonia Gray, Tenant; VA Medical Center Federal Credit Union; and the County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property, and the Defendant, John Doe, Tenant, is hereby dismissed as a Defendant herein, and the Defendant, Tonia Gray, Tenant, is substituted as a Defendant for Mary Doe, Tenant, who is dismissed.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without

appraisement, the real property involved herein and apply the proceeds of the sale as follows:

First:


In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.


UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 90-C-125-E

PB/esr

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

RESOLUTION TRUST CORPORATION
AS CONSERVATOR FOR SAVERS
SAVINGS ASSOCIATION,

Substituted
Plaintiff,

v.

LARRY W. McGRAW, et al,

Defendants.

FILED
JAN 30 1992
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

89-C-970-B

#89-C-971-B
(consol.)

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed December 19, 1991 in which the Magistrate Judge recommended that Plaintiff, Resolution Trust Corporation as conservator for Savers Savings Association, should be awarded a deficiency judgment against the Defendant, Larry W. McGraw, in the sum of \$46,121.71.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that Plaintiff, Resolution Trust Corporation as conservator for Savers Savings Association, is awarded a deficiency judgment against the Defendant,

44

Larry W. McGraw, in the sum of \$46,121.71.

Dated this 30th day of Jan, 1992.

A handwritten signature in cursive script, reading "Thomas R. Brett".

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JAN 30 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RESOLUTION TRUST CORPORATION
AS CONSERVATOR FOR SAVERS
SAVINGS ASSOCIATION,

Substituted
Plaintiff,

v.

LARRY W. McGRAW, et al,

Defendants.

89-C-970-B

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed December 19, 1991 in which the Magistrate Judge recommended that Plaintiff, Resolution Trust Corporation as conservator for Savers Savings Association, should be awarded a deficiency judgment against the Defendant, Larry W. McGraw, in the sum of \$46,121.71.


No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that Plaintiff, Resolution Trust Corporation as conservator for Savers Savings Association, is awarded a deficiency judgment against the Defendant,

Larry W. McGraw, in the sum of \$46,121.71.

Dated this 30th day of Jan, 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

- Original in
Case #89-C-970-B

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED
JAN 30 1992
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RESOLUTION TRUST CORPORATION)
AS CONSERVATOR FOR SAVERS)
SAVINGS ASSOCIATION,)
)
Substituted)
Plaintiff,)
)
v.)
)
LARRY W. McGRAW, et al,)
)
)
Defendants.)

89-C-970-B
#89-C-971-B
(consol.)

ORDER

The Court has for consideration the Report and Recommendation of the United States Magistrate Judge filed December 19, 1991 in which the Magistrate Judge recommended that Plaintiff, Resolution Trust Corporation as conservator for Savers Savings Association, should be awarded a deficiency judgment against the Defendant, Larry W. McGraw, in the sum of \$46,121.71.

No exceptions or objections have been filed and the time for filing such exceptions or objections has expired.

After careful consideration of the record and the issues, the Court has concluded that the Report and Recommendation of the United States Magistrate Judge should be and hereby is adopted and affirmed.

It is, therefore, Ordered that Plaintiff, Resolution Trust Corporation as conservator for Savers Savings Association, is awarded a deficiency judgment against the Defendant,

44

Larry W. McGraw, in the sum of \$46,121.71.

Dated this 30th day of Jan, 1992.

A handwritten signature in cursive script, reading "Thomas R. Brett".

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

FILED

JAN 30 1992

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ROBERT PUGH,

Plaintiff,

v.

Case No. 91-C-225-B

AMERICAN COMMUNICATIONS, INC.,
TELECONNECT LONG DISTANCE SERVICES
SERVICES & SYSTEMS COMPANY, d/b/a
TELECOM * USA and MCI
COMMUNICATIONS CORPORATION,

Defendants.

ORDER ALLOWING JOINT STIPULATION OF DISMISSAL

The Court having been advised by counsel that the above
action has been settled, it is

THEREFORE ORDERED, ADJUDGED AND DECREED that this cause be
hereby dismissed with prejudice, with each party to bear its own
costs and attorneys' fees.

DATED: 1 - 30 - 92


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 30 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CALVIN PARKS,

Plaintiff,

v.

Case No. 91-C-163-B

AMERICAN COMMUNICATIONS, INC.,
TELECONNECT LONG DISTANCE SERVICES
SERVICES & SYSTEMS COMPANY, d/b/a
TELECOM * USA and MCI
COMMUNICATIONS CORPORATION,


Defendants.

ORDER ALLOWING JOINT STIPULATION OF DISMISSAL

The Court having been advised by counsel that the above
action has been settled, it is

THEREFORE ORDERED, ADJUDGED AND DECREED that this cause be
hereby dismissed with prejudice, with each party to bear its own
costs and attorneys' fees.

DATED: 1-30-92


UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RMP CONSULTING GROUP, INC.,)
and RMP SERVICE GROUP, INC.,)

Plaintiffs,)

v.)

No. 91-C-199-~~1~~E

DANA COMMERCIAL CREDIT)
CORPORATION,)

Defendant.)

STIPULATED PARTIAL JUDGMENT

Now, on this 30th day of January, 1992, there comes on for consideration the Motion for Entry of Stipulated Partial Judgment filed herein by RMP Consulting Group, Inc. and RMP Service Group, Inc. (collectively "RMP"), and Dana Commercial Credit Corporation ("Dana"). RMP appears by and through its counsel of record, J. Daniel Morgan, and Dana appears by and through its counsel of record, Mack J. Morgan III.

The Court finds that the parties have stipulated, as evidenced by the signatures of the respective counsel set forth hereinbelow, to the terms of this partial judgment which are incorporated by reference in that Motion for Entry of Stipulated Partial Judgment filed herein on January ___, 1992. Based upon the Motion for Entry of Stipulated Partial Judgment, the Court finds as follows:

1. This action was filed on March 22, 1991, by RMP seeking declaratory, injunctive, and monetary relief against Dana based upon RMP's acquisition at foreclosure sale from Bank of Oklahoma, N.A., of inventory, equipment and chattel paper, formerly owned by CopyTech Systems, Inc.

2. RMP complained that Dana has interfered with payments to RMP from certain equipment leases, threatened to interfere with RMP's receipt of future payments, and that it had wrongfully asserted an interest in equipment which had been purchased by RMP through the foreclosure process.

3. On April 26, 1991, Dana filed its Answer and Counterclaims in the case, denying the material allegations of the Complaint, and sought declaratory, injunctive, and monetary relief against RMP, claiming that its interest in certain leases and equipment subject to the leases described was prior and superior to any right claimed by RMP. The leases and equipment owned by Dana and which are the subject of the disputed claims are described on Schedule "1" attached to this Judgment, and are hereinafter collectively referred to as the "Dana Leases". The lessees under the Dana Leases are collectively referred to as the "Dana Lessees".

4. The parties have now stipulated that the following judgment should be entered in this case.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED as follows:

1. RMP is hereby determined to have no right, title or interest in and to the Dana Leases, including any lease payments thereunder or any of the specified equipment leased thereunder, or any residual interest in the equipment after termination of the Dana Leases.

2. RMP should be, and hereby is, permanently enjoined from contacting any Dana Lessee with respect to providing service on any of the specified equipment provided under the Dana Leases or to interfere with Dana's rights to collect payments under any of the Dana Leases, or Dana's rights to repossess or take possession of, in any way, any of the equipment provided under the Dana Leases.

3. RMP shall account to Dana within ten (10) days, by certification of its Chief Executive Officer, that (1) it has not received any funds attributable to payments made under any of the Dana Leases or any so-called Copier Management Programs relating to the Dana Leases, and to the extent that any such payments have been made, but not tendered to Dana, RMP should be, and hereby is, directed to tender such funds to Dana at the time of such accounting, and (2) it has not recovered any equipment subject to any of the Dana Leases, and to the extent any equipment has been recovered, RMP should be, and hereby is, directed to relinquish possession of such equipment to Dana at the time of such accounting.

4. RMP should be, and hereby is, permanently enjoined from bringing any action or other legal proceeding against any Dana Lessee relating to any alleged Copier Management Program agreement covering equipment which is the subject of any Dana Lease.

5. RMP should be, and hereby is, directed to execute the form of letter described on Schedule "2" hereto directing that the Dana Lessees make their lease payments to Dana, clarifying that RMP is making no claim against the Dana Lessee with respect to the leased equipment provided thereunder or under any Copier Management Program with respect thereto, and further disclaiming any right, title or interest in and to any of the equipment which is the subject of the Dana Leases.

6. RMP shall be permitted to contact any Dana Lessee only if such lessee has a separate lease with RMP or has equipment which is not specified on Dana Leases to enforce its rights under such separate lease or Copier Management Program; provided, however, that such contact or enforcement shall not interfere with any of the Dana Leases.

7. RMP should be, and hereby is, permanently enjoined from attempting to solicit or encourage any Dana Lessee to trade in or upgrade any equipment provided under the Dana Leases, or otherwise interfere with Dana's outstanding lease relationship with the Dana Lessees.

8. Each party hereto shall bear its own costs, expenses and attorneys' fees.

9. This Stipulated Partial Judgment does not apply to the leases, CMP agreements, equipment, or any other issues relating to the 12 customers listed on Schedule "3".

IT IS SO ORDERED.

S/ JAMES O. ELLISON

UNITED STATES DISTRICT JUDGE

Approved for Entry:

By: J. Daniel Morgan
J. Daniel Morgan, OBA #10550

Of the Firm:
GABLE & GOTWALS, A P.C.
15 W. 6th Street, Suite 200
Tulsa, Oklahoma 74119-1217
(918) 582-9201

ATTORNEYS FOR RMP CONSULTING GROUP,
INC. AND RMP SERVICE GROUP, INC.

By: Mack J. Morgan III
Mack J. Morgan III, OBA #6397

Of the Firm:
CROWE & DUNLEVY
1800 Mid-America Tower
20 North Broadway
Oklahoma City, Oklahoma 73102
(405) 235-7700

ATTORNEYS FOR DANA COMMERCIAL
CREDIT CORPORATION

436.91B.MJM

SCHEDULE 1 TO STIPULATED PARTIAL JUDGMENT

<u>Lease No.</u>	<u>Name</u>
214860	Advanced Technology Systems
211406	Aitep
188553	All Star Emblem
213728	Alpena Public Schools
211861	Alpine Village Apartments
188101	Alumni Association
165877	American Admin. Services
163364	American Tubing, Inc.
166370	Aptus Corporation
180703	Bank of Gainesville
183765	Bank of Thayer
174761	Big-4 Service & Supply, Inc.
178871	Bixby Public Schools
157109	Boatmen's National Bank
181080	Bolivar Middle School
175660	Brook Franklin
176432	Bykota Baptist Church
187747	B. H. Medical Management
221725	Charles C. Cantrell Attorney
185271	Chetopa High School
175659	City of Mountain Grove
182610	Class Limited
186863	Cleveland County Court Clerk
219789	Consumers IGA Thriftway, Inc.
159281	Cotter School District
202362	Cotter School District
187520	Craig General Hospital
183840	Crawford County District Ct.
179291	Creative Enterprises, Inc.
173803	Dade Co. Health Department
170771	Detroit Tool & Metal Products
213622	DL Depping Trucking, Inc.
214854	Donna Kay's County Store
176435	Dresser-Rand Compression Services
166727	Dr. James R. Weir DDS
175368	Ear Nose & Throat Clinic
215113	Ervin Photography
177812	Evangelistic Temple
217696	Family Mental Health
217287	Fashion, Inc.
187566	Fordick Corporation
211397	Four State Supply Company
161816	Francis Willard Home for Girls
216615	Fred Baker Firearms, Inc.
165493	Garnett Wood Products Co., Inc.
213723	Gasconade C-4 Schools
182096	Gatesway Foundation, Inc.
183023	General Electric Co.
221446	Girard USD 248
213132	Glendale Christian Church
175373	Grace Lutheran Church
218175	Grain Valley R-5 School

<u>Lease No.</u>	<u>Name</u>
175614	Green Seed Co.
183760	Gulfstream Aerospace Corp.
164843	Hailey Associates
179256	Hal S. McBride Co.
179551	Hathaway Corporation, Inc.
213135	Heber Springs School District No.1
213928	Hurley Public Schools
216723	Insty-Prints
219192	Interstate Electric
215115	Jasper Schools
165483	Joe West Company
213726	John Miller Insurance Agency
174457	John Zink Company
182166	Jones & Company Realtors
171389	Jon's Truck & Equipment Sales
216691	Kanakuk Kanakomo Kamps
198804	Keystone Schools
175020	Keystone Schools
218767	Lagere Walkinstick
213127	Lake Country Office Service
218691	Lebanon Publishing
179264	Leo Sisenberg Co.
213126	Light Works Manufacturing
218269	Litho-Stat/Indenticolor
184580	Little Portion Inc.
182351	Locust Grove Schools
213938	Marsh & McLennan Group Assoc.
172470	Marshfield Drayage
217593	Martell & Associates
220556	Matrix Service Co.
218211	Mayes County Clerk
170468	MBM Midwest
186861	McDonald County RI School
182863	Memorial Medical Center
182865	Memorial Medical Center
157116	Mercantile Bank
186123	Meyer & Villines Law Office
167846	Mid State Organized Crime
188102	Med-America Hardwoods, Inc.
214134	Natkin Service
177752	New Lugens's Inc.
184684	Nitron Industries
221285	North Arkansas Medical Center
213867	Norwood Schools
186864	Oklahoma Engineering
181283	Oklahoma Fixture Co.
187490	Osceola Independent Schools
171487	Outreach Publications
203701	Ozark Stone
185661	Ozark Technical Ceramics
162410	Ozarks Entertainment, Inc.
174057	O.I. Brockway Plant #14

<u>Lease No.</u>	<u>Name</u>
221411	Pace Industries
174764	Parsons School District
168131	Perennial Energy Inc.
213478	Pioneer Abstract & Title Co.
219798	Pioneer VO Tech School
185832	Prime Inc.
185715	Protective Life Insurance Co.
175608	Pryor Foundry
173741	Quality Quick Print
175675	Rawlings Sporting Goods
177032	Reeds Spring Jr. High
168361	Rogers Tool Works, Inc.
217600	Rogersville Market
171684	Ruby L. Utley
213937	Shanks Trucking
168405	Simmons 1st Mortgage
185707	Sixty Six Federal Credit Union
173807	Southwest Baptist University
186702	Southwestern Wire Cloth
183508	Spokane R. VII Schools
181012	Springfield Gymnastics
183897	State Federal Savings & Loan
221257	Stipe, Gossett, Stipe, Harper
176440	Stockton Schools
186008	Stoney Brook Apartments
183608	Stroud Schools
214141	St. Joseph Home & School Assoc.
178541	St. Vincent De Paul School
176743	Summit Builders
213122	Superior Industries
158488	Swapco
168758	Sylvan Learning Center
213145	Tall Grass Technologies
185437	The Quarles Agency
215002	Thomison Insurors, Inc.
164284	Times Publishing Co., Inc.
202365	Tindle Mills, Inc.
187183	Tindle Mills, Inc.
211537	Town & Country Market
180437	Treasure Lake Camping Club
176430	Tulsa Abstract & Title Co.
173219	Tulsa City County Library
166053	Tulsa Psychiatric Center
178670	Tulsa Women's Clinic Inc.
180662	Utica Park Clinic
207399	Utica Park Clinic
221312	Vox Printing
157743	Walkingstick Lagere & Pair
177354	Washington County Courthouse
176436	Webbers Falls Schools
221732	Western Cancer Center Ltd.
162412	Whitco Inc.

Lease No.**Name**

157758	Whittaker Electronic Systems
180656	Wiles Abstract & Title Co.
184488	Winslow Grocery
220537	Womans Clinic
210417	Woodcraft Furniture
213787	Woodruff, Mayo & Green

Schedule "2"

DCC Letterhead

Form of Letter

[Dear DCC Lessee]

Re: CopyTech Systems, Inc. and Dana Commercial
Credit Corp. ("DCC"), DCC Lease No.

In the past, you may have received a letter from RMP Consulting Group, Inc. or RMP Service Group, Inc. (collectively, "RMP"), implying or inferring that RMP claimed an interest in the equipment which was or is being leased to you by Dana Commercial Credit Corporation ("DCC"). The letter may have also implied or inferred that RMP claimed an interest in the lease payments which you have been sending to DCC.

This letter is intended to clarify any misunderstanding in that regard. Notwithstanding any letter which you may have received to the contrary in the past, RMP makes no claim whatsoever to any of the equipment which you are now leasing from DCC or any payments which have, in the past, been made to DCC or which are required, now or hereafter, to be made under the terms of the lease.

Furthermore, RMP makes and will make no claim for any payments which may have been due to CopyTech Systems, Inc. under any copier management program with respect to any equipment which was or is being leased to you by DCC. Please make all lease payments directly to DCC.

This letter is being sent pursuant to a partial judgment rendered in the United States District Court for the Northern District of Oklahoma in an action between RMP and DCC. We hope this clears up any confusion which may have existed. We apologize for any inconvenience which may have been caused.

Respectfully submitted,

DANA COMMERCIAL CREDIT CORPORATION

By: _____

RMP CONSULTING GROUP, INC.
RMP SERVICE GROUP, INC.

By: _____
Henry Doss

SCHEDULE 3 TO STIPULATED PARTIAL JUDGMENT

1. Claremore Christian Fellowship
2. Coaches Directory
3. Fran-Rich Leasing
4. Fayetteville Airport
5. Neosho Public Schools
6. Super 8 Motel
7. Taylor Food Fair
8. Zemke's One Stop
9. Muskogee Schools
10. HCA Prebyterian
11. Westark Community College
12. Lafarge

CIVIL ACTION NO. 91-C-661-B

FILED

JAN 30 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 30th day of Jan., 1992. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Wyn Dee Baker, Assistant United States Attorney; the Defendants, County Treasurer, Tulsa County, Oklahoma, and Board of County Commissioners, Tulsa County, Oklahoma, appear by J. Dennis Semler, Assistant District Attorney, Tulsa County, Oklahoma, and claim no right to the subject real property; and the Defendants, Frances L. Burdex a/k/a Frances Louise Burdex, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America and Colonial Bonding Company of Newport Beach, California, appear not, but make default.

The Court, being fully advised and having examined the court file, finds that the Defendant, Frances L. Burdex a/k/a

**NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY.
UPON RECEIPT.**

Frances Louise Burdex, acknowledged receipt of Summons and Complaint on September 8, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on August 30, 1991; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on August 30, 1991.

The Court further finds that the Defendants, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America and Colonial Bonding Company of Newport Beach, California, were served by publishing notice of this action in the Tulsa Daily Commerce & Legal News, a newspaper of general circulation in Tulsa County, Oklahoma, once a week for six (6) consecutive weeks beginning November 19, 1991, and continuing to December 24, 1991, as more fully appears from the verified proof of publication duly filed herein; and that this action is one in which service by publication is authorized by 12 O.S. Section 2004(c)(3)(c). Counsel for the Plaintiff does not know and with due diligence cannot ascertain the whereabouts of the Defendants, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America and Colonial Bonding Company of Newport Beach, California, and service cannot be made upon said Defendants within the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, or upon said Defendants without the Northern Judicial District of Oklahoma or the State of Oklahoma by any other method, as more fully appears from the evidentiary affidavit of a bonded abstracter filed herein with respect to the

last known addresses of the Defendants, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America and Colonial Bonding Company of Newport Beach, California. The Court conducted an inquiry into the sufficiency of the service by publication to comply with due process of law and based upon the evidence presented together with affidavit and documentary evidence finds that the Plaintiff, United States of America, acting on behalf of the Secretary of Veterans Affairs, and its attorneys, Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Wyn Dee Baker, Assistant United States Attorney, fully exercised due diligence in ascertaining the true name and identity of the parties served by publication with respect to their present or last known places of residence and/or mailing addresses. The Court accordingly approves and confirms that the service by publication is sufficient to confer jurisdiction upon this Court to enter the relief sought by the Plaintiff, both as to subject matter and the Defendants served by publication.

It appears that the Defendants, County Treasurer, Tulsa County, Oklahoma, filed his Answer on September 20, 1991; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, its Answer on September 20, 1991; and that the Defendants, Frances L. Burdex a/k/a Frances Louise Burdex, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America and Colonial Bonding Company of

Newport Beach, California, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Nine (9), Block Twenty-Seven (27), Valley View Acres Addition to the City of Tulsa, Tulsa County, State of Oklahoma, according to the recorded plat thereof.

The Court further finds that on February 12, 1971, the Defendant, Pearlle M. Edwards, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, her mortgage note in the amount of \$9,750.00, payable in monthly installments, with interest thereon at the rate of 4.5 percent (4.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Pearlle M. Edwards, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated February 12, 1971, covering the above-described property. Said mortgage was recorded on February 17, 1971, in Book 3957, Page 266, in the records of Tulsa County, Oklahoma.

The Court further finds that on December 16, 1975, Pearlle M. Edwards executed and delivered to Defendants, Aaron B.

Burdex and Frances L. Burdex, a General Warranty Deed recorded on December 17, 1975, in Book 4195, Page 1899 in the records of Tulsa County, Oklahoma.

The Court further finds that on September 3, 1976, a Decree of Divorce, JFD 75-5131, awarded the subject property to Frances L. Burdex, which Decree was recorded on September 3, 1976 in Book 4230, Page 790 in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Frances L. Burdex a/k/a Frances Louise Burdex, made default under the terms of the aforesaid note and mortgage by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Frances L. Burdex a/k/a Frances Louise Burdex, is indebted to the Plaintiff in the principal sum of \$5,373.63, plus interest at the rate of 4.5 percent per annum from August 1, 1989 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in the amount of \$289.10 (\$20.00 docket fees, \$269.10 publication).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, Frances L. Burdex a/k/a Frances Louise Burdex, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America and Colonial Bonding Company of Newport Beach,

California, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendant, Frances L. Burdex a/k/a Frances Louise Burdex, in the principal sum of \$5,373.63, plus interest at the rate of 4.5 percent per annum from August 1, 1989 until judgment, plus interest thereafter at the current legal rate of 4.02 percent per annum until paid, plus the costs of this action in the amount of \$289.10 (\$20.00 docket fees, \$269.10 publication fees), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Frances L. Burdex a/k/a Frances Louise Burdex, Aaron B. Burdex a/k/a Aaron Bernard Burdex, William H. Burdex, Heritage Insurance Company of America, Colonial Bonding Company of Newport Beach, California and the County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without

appraisement, the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

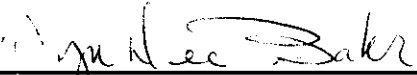
IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

U/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



WYN DEE BAKER, OBA #465
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 91-C-661-B

WDB/esr

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 30 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FEDERAL DEPOSIT INSURANCE
CORPORATION, as Receiver of VICTOR
FEDERAL SAVINGS AND LOAN ASSOCIATION,
MUSKOGEE, OKLAHOMA,

Plaintiff,

vs.

Case No. 91 C 737 *LB*

ROBERT A. BAINE and DEBORAH K. BAINE,
a/k/a DEBBIE K. BAINE, husband and wife;
TOMMY D. HICKEY and MYRA D. HICKEY,
husband and wife; et al.,

Defendants.

DEFAULT JUDGMENT

NOW on this the 29th day of January, 1992, the cause herein coming on for hearing, the Plaintiff, FEDERAL DEPOSIT INSURANCE CORPORATION ("FDIC"), appearing by its attorney, Marti Hirst and the Defendants, TOMMY D. HICKEY and MYRA K. HICKEY, appearing not either in person or by attorney.

The Court thereupon examined the pleadings, process and files in this cause and having heard the evidence and being fully advised in the premises, finds that due and regular service of summons with copy of Plaintiff's Complaint has been made upon all Defendants as provided by law, and that said summons and said service thereof is legal and regular in all respects.

The Defendants, TOMMY D. HICKEY and MYRA D. HICKEY, were duly served with process by personal service on September 27, 1991 and have failed to answer or otherwise plead herein and are in default and are hereby adjudged in default.

The Court further finds from the Affidavit as to military service on file herein and from other evidence, that the Defendants, TOMMY D. HICKEY and MYRA D. HICKEY, hereinabove found to be in default, are not in the military service of the United States of America, as provided by the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and that no bond should be required under said Act, and it is hereby ordered that FDIC proceed to trial against said Defendants.

Thereupon, the parties so appearing as above set forth, the Court, being fully advised in the premises, upon a review of the pleadings, FINDS that the allegations of Plaintiff's Complaint are true and correct and Plaintiff is entitled to judgment as follows:

1. On July 28, 1988, the Federal Savings and Loan Insurance Corporation ("FSLIC") was appointed Receiver for Victor Federal Savings and Loan Association, Muskogee, Oklahoma ("BANK") pursuant to Resolution No. 88-627P adopted by the Federal Home Loan Bank Board on July 28, 1988. As Receiver, the FSLIC succeeded to all rights, titles, interests and privileges of Victor Federal Savings and Loan Association, Muskogee, Oklahoma.

2. On August 9, 1989, Congress enacted the Financial Institutions Reform, Recovery, and Enforcement Act ("FIRREA"), Public Law 101-73, effective on the date of enactment, whereby the FSLIC was abolished [FIRREA §401(a)(1)]. Section 215 of said Act provided that all assets and liabilities of FSLIC were transferred to the FSLIC Resolution Fund, a separate fund maintained and managed by the Federal Deposit Insurance Corporation ("FDIC"), 12 U.S.C.A. §1821(a). Pursuant to said Act, the FDIC became manager of the FSLIC Resolution Fund and succeeded to all the rights, titles and

interests of the FSLIC as Receiver of Victor Federal Savings and Loan Association, Muskogee, Oklahoma.

3. On or about September 29, 1983, Defendants, TOMMY D. HICKEY; MYRA D. HICKEY; ROBERT A. BAINE and DEBORAH K. BAINE, made, executed and delivered to the BANK their Promissory Note in the original amount of \$32,000.00, with a variable interest rate of 4.75% above the 26-week Treasury Bill every six (6) months, with the initial rate of 14% per annum, and there is a balance due, owing and unpaid thereon in the principal sum of \$32,737.55 plus interest to September 13, 1991, in the amount of \$20,603.64 and said sum continues to bear interest at the rate of \$9.23 per day thereafter.

4. Defendants have defaulted in the performance of the terms and conditions of said Note.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED by the Court as follows:

1. Plaintiff shall have judgment in personam against the Defendants, TOMMY D. HICKEY and MYRA D. HICKEY, for the sum of \$32,737.55 with interest in the amount of \$20,603.64 to September 13, 1991, the same bearing interest thereon at the rate of \$9.23 per day, until paid and for costs of this action, including a reasonable attorney's fee.

S/ THOMAS R. BRETT

JUDGE OF THE U. S. DISTRICT COURT

APPROVED:

A handwritten signature in cursive script, appearing to read "Marti Hirst", is written over a horizontal line.

MARTI HIRST, OBA #4234

Post Office Box 26208

Oklahoma City, Oklahoma 73126

(405) 841-4342

Attorney for Plaintiff, FDIC

[Baine2.JE]

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED
JAN 20 1992
Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ATLANTIC RICHFIELD COMPANY,)

Plaintiff,)

v.)

CASE NO. 89-C-868-C

AMERICAN AIRLINES, INC., ET. AL.,)

Defendants.)

ATLANTIC RICHFIELD COMPANY,)

Plaintiff,)

v.)

CASE NO. 89-C-869-C

SOLVENTS RECOVERY CORP., ET. AL.,)

Defendants.)

ATLANTIC RICHFIELD COMPANY,)

Plaintiff,)

v.)

CASE NO. 90-C-859-C

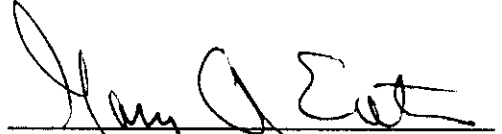
UNIT RIG & EQUIPMENT CO., ET. AL.,)

Defendants.)

NOTICE OF DISMISSAL WITHOUT PREJUDICE
OF CHEMICAL LEAMAN TANK LINES, INC.

Now on this 30th day of January, 1992, all parties hereto
please take notice that pursuant to Rule 41 (a) of the Federal

Rules of Civil Procedure the Plaintiff hereby dismisses without prejudice this action against Chemical Leaman Tank Lines, Inc., only, and expressly and specifically reserves its causes of action against all other defendants herein.



Gary A. Eaton, OBA #2598
Attorney at Law
1717 East 15th St.
Tulsa, OK 74104
918 743 8781

CERTIFICATE OF MAILING

The undersigned certifies that on January 30th, 1992, a true and correct copy of the above instrument / pleading was mailed with postage prepaid to the following persons:

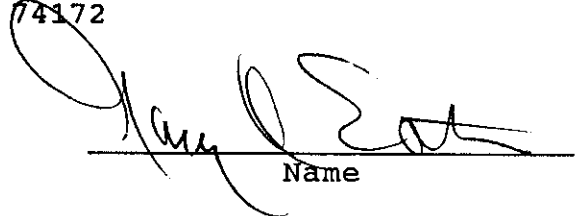
Mr. William Anderson, Attorney at Law and Liason Counsel and Co-Lead Counsel for Owners and Non-Operator Lessees Group, 320 South Boston, Suite 500, Tulsa, OK 74103

Mr. John Tucker, Attorney at Law and Lead Counsel for Non Group Generators and Transporters, 2800 Fourth National Bank Building, Tulsa, OK 74119

Mr. Steve Harris, Attorney at Law and Lead Counsel for Operators Group, Suite 260, Southern Hills Tower, 2431 East 61st Street, Tulsa, OK 74136

Mr. Charles Shipley, Attorney at Law and Settlement Coordinator, 3600 First National Tower, Tulsa, OK 74103

Ms. Claire Eagan, Attorney at Law and Lead Counsel for the Sand Springs PRP Group, 4100 Bank of Oklahoma Tower, One Williams Center, Tulsa, OK 74172


Name

FILED

JAN 30 1992

United States District Court

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

NORTHERN

DISTRICT OF

OKLAHOMA

JOYCE FLOWERS, as surviving
Spouse and Next of Kin of
Phillip Flowers, Deceased,
v. Plaintiff,

JUDGMENT IN A CIVIL CASE

CROWN EQUIPMENT CORPORATION,
an Ohio Corporation,
Defendant.

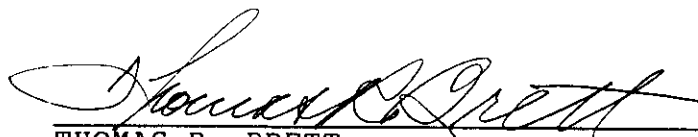
CASE NUMBER: 91-C-19-B

- ☒ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict on January 29, 1992.
- ☐ **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that judgment is hereby entered in favor of the Defendant, Crown Equipment Corporation, an Ohio Corporation, and against the Plaintiff, Joyce Flowers, as surviving Spouse and Next of Kin of Phillip Flowers, Deceased.

IT IS FURTHER ORDERED that the Defendant Crown Equipment Corporation is awarded costs of this action if timely applied for pursuant to Local Rule 6(E).

IT IS FURTHER ORDERED that the Parties shall pay their own respective attorneys fees.



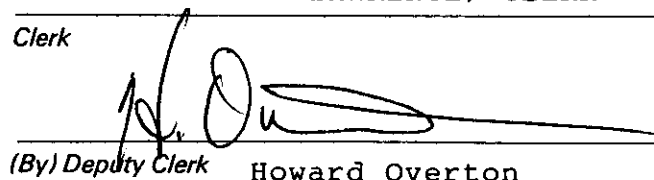
THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

January 30, 1992

Date

RICHARD M. LAWRENCE, CLERK

Clerk



(By) Deputy Clerk Howard Overton

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 30 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

WTG-WEST, INC., a corporation)

Plaintiff,)

vs.)

ATLAS-GEST CORP., a
corporation,)

Defendant.)

No. 90-C-661-B

PARTIAL JUDGMENT

In keeping with the Findings of Fact and Conclusions of Law filed on October 29, 1991, partial judgment is hereby entered in favor of the Defendant, Atlas-Gest Corporation, and against the Plaintiff, WTG-West, Inc., in the amount of \$275,402.91. In view of the offer to confess judgment filed by WTG-West on February 5, 1991, the parties, pursuant to Local Rule 6, should timely file their respective claims for costs and/or attorneys' fees.

An evidentiary hearing is set relating to the issues of costs and attorneys' fees for February 12, 1992 at 9:30 A.M..¹ Any appeal time should not commence to run until the Court enters its final judgment relative to the respective claimed costs, attorneys' fees, prejudgment and postjudgment interest, etc. in view of the offer to confess judgment.

DATED this 30th day of January, 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT COURT

¹ The Court reserves the prejudgment interest issue until after further hearing and order.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 29 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HASTIE AND KIRSCHNER, et al,)
)
 Plaintiffs,)
)
 v.)
)
 MID-AMERICA CONTROLS,)
)
 Defendant.)

91-C-521-E
91-C-522-E
91-C-523-E
91-C-524-E
91-C-525-E ✓

ORDER

Now before this Court is an appeal from the United States Bankruptcy Court in the Northern District of Oklahoma. The issue is whether Appellant law firm should be disqualified from the instant case because of its former involvement with Appellee corporations. The Bankruptcy Court held that the firm should be disqualified. Based on the reasoning below, this Court **AFFIRMS** the Bankruptcy Court's decision.

Summary Of Facts

The backdrop of this case focuses on the relationship of eight corporations, an Oklahoma City law firm and Lynn Whitefield. Five of the corporations, controlled by Whitefield, are in bankruptcy proceedings -- Mid-Americas Process Services, Inc. ("MAPS"), Mid-America Controls, Inc. ("MAC"), Mid-America Machinery Association, Inc. ("MAMA"), MAPS International Inc. and Mid-America Acquisition And Trading Company ("MATCO").¹

¹ According to Appellees' brief, Whitefield was the record owner of 50% of the stock of three corporations in early 1990. He eventually was the owner of 100 % of the companies.

Prior to April of 1990, Whitefield targeted Southern Standard Fittings Co., a Opeolousas, Louisiana corporation that had filed for bankruptcy, for acquisition. In his attempt to acquire Southern, Whitefield bought Jobs For St. Landry Parish ("Jobs"), a Louisiana corporation formed by Opeolousas residents.² Fremont Financial Corporation ("Fremont") would eventually finance Whitefield's acquisition of Southern.

The specific facts are as follows: On March 10, 1990, Lynn Whitefield paid Hastie & Kirschner ("H&K"), an Oklahoma City law firm, a \$20,000 retainer to help him finance the acquisition of Southern Standard Fittings. *Transcript Of Proceedings, April 24, 1990 hearing, page 19*. The exact nature of what legal services were rendered are disputed by the parties in this case, but the Bankruptcy Court found that Whitefield hired the firm to be his counsel.

On April 29, 1990, H&K attorney Michael Kirschner huddled with Whitefield, officials of Whitefield's corporations, Fremont representatives and others for more than 14 hours. At the end of the meeting, the parties closed a multi-million dollar deal where Fremont would finance the Southern acquisition for Jobs. Part of the terms of the deal included a separate loan from Fremont to MAPS to finance the latter's revolving loan of credit. In addition, several of the Whitefield-debtor corporations guaranteed the two loans.³

² Residents formed the corporation in an effort to save Southern, which was one of the city's major employers.

³ On April 29, 1991, Fremont made a loan to Jobs and one to MAPS. April 29, 1990 Loan And Security Agreement Between Fremont and Jobs, Fremont Exhibit 1, April 24, 1991 hearing, and April 29, 1990 Loan and Security Agreement Between Fremont and MAPS, Fremont Exhibit No. 1, April 24, 1991 hearing. Also executed on that day were guaranties for the two loans. MAPS, MAC and MAPS International guaranteed the Jobs loan, and Jobs, MAC, and MAPS guaranteed the MAPS loan. On June 27, 1990, Fremont made a loan to MATCO. See Complaint, Whitefield Exhibit 15, April 24, 1990 hearing.

Nearly a year later, on April 12, 1991, MAPS and MATCO filed for Chapter 11 bankruptcy. *Appellees' Combined Brief In Chief*, page 9 (docket #6). Five days later, MAPS International, MAC and MAMA filed for Chapter 11 bankruptcy. *Id.* Fremont -- the largest secured creditor of the five Whitefield corporations -- is a party in the bankruptcy proceedings. Kirschner, the same attorney that had represented Whitefield in the Southern acquisition, entered the case as Fremont's counsel. Fremont now has hired new counsel.

On April 18, 1991, Whitefield and the five corporations filed motions to disqualify H&K.⁴ Six days later, the Bankruptcy Court held a hearing on the motion. Eight persons testified, including attorney Kirschner and Whitefield. Among the evidence presented was several letters from Kirschner to Whitefield. Below is a summary of that hearing and the subsequent ruling from the Bankruptcy Court.

April 24, 1991 Bankruptcy Court Hearing

Whitefield testified that he paid Kirschner \$20,000 as a retainer for legal services, but admitted no written contract existed between him and the attorney. *Transcript at pages 31-34.* Whitefield also testified that he believed Kirschner was representing his personal interests in addition to those of Jobs and the other corporations in question. *Id. at pages 36-38.*⁵ Whitefield's testimony also indicated that several law firms also were representing MAPS and MATCO. *Id. at 31, 47 and 50.*

⁴ See *Debtors' Motion To Determine Conflict Of Interest By Fremont Financial Corporation Counsel And For Order Disqualifying Counsel*, Volume I, Record On Appeal.

⁵ Whitefield testified: "There was no doubt whatsoever in my mind that Mr. Kirschner was representing me and my interests. Whether or not those interests were Jobs for Saint Landry or MAPS or whoever. And I am -- I'm appalled that Mr. Kirschner's memory would be so dim after such a period of time." *Id. at 38.*

Jack Angleton, who was employed by MAPS during the Southern acquisition, testified that he believed Kirschner was representing the interests of Whitefield and that of the five corporations, including MAPS. *Id. at 76.*

Gary Reiss, Fremont's counsel, testified that Kirschner stated at the closing of the Southern acquisition that H&K was only representing Jobs and not MAPS. *Id. at 85-86.* In addition, Michael Freeman, who helped Whitefield acquire Jobs, testified that Kirschner said that he was only representing Jobs. *Id. at 102, 118.* Kirschner also testified that he did not personally represent Whitefield.

In addition to testimony, several letters from Kirschner to Whitefield were introduced as evidence. Each of the letters were marked as Privileged Attorney-Client Communication/Attorney Work Product. *See Exhibits attached to Brief In Support Of Motion To Determine Conflict Of Interest Of Counsel And For Order Disqualifying Counsel, Volume I of Bankruptcy Record.* Such letters were sent to Whitefield's home address.

An August 11, 1990 letter, written by Kirschner to Whitefield, concluded: "**Our firm will render further services on your behalf only upon your direct request.**" *Id.* In addition, a September 5, 1990 letter discussing pending legal fees of H&K stated that Whitefield indicated on August 8, 1990 that he would like H&K to continue to be engaged on Whitefield's behalf. *Id.*

As findings of fact, the Bankruptcy Court held the following: 1) Kirschner was acting as attorney for Whitefield and for Jobs; 2) Kirschner was not acting as attorney for any of the five corporations in this bankruptcy proceeding and 3) Whitefield and his five corporations were intertwined with Fremont because of the Southern financing agreement.

Transcript at page 231. Based on those facts, the Bankruptcy Court concluded:

And I'm going to rule that he cannot [represent Fremont in the instant litigation] for the following reasons. Whitefield owns all of the stock of every one of these corporations or substantially all. He's an officer, he's a director and he's the CEO of these companies. These five companies that are in Chapter 11 are Mr. Whitefield's businesses...Therefore, if you cannot represent Fremont against Whitefield, I don't feel you can represent Fremont against Whitefield's solely owned corporations. I believe this is particularly true when we're dealing with these interrelated loans. These are all the same transaction. You can't separate them out...It is the same debt. It is the same transaction. *Transcript at pp. 233-234.*

The Bankruptcy Court emphasized that its ruling hinged, in part, on the fact that the loans surrounding the Southern acquisition were cross-guaranteed and "cross-defaulted." *Id.* Furthermore, the Bankruptcy Court said it did not "believe that Mr. Whitefield should have to come into Chapter 11 and...see his former attorney sitting across the table representing the major creditor." *Id. at 235.*

On July 19, 1991, Fremont and H&K appealed the Bankruptcy Court's decision in each of the five bankruptcy proceedings. For purposes of this appeal, on October 2, 1991, the cases were consolidated. *See Order For Consolidation Of Appeals For Administrative Purposes (docket #5).* On November 4, 1991, the court conducted an advisory hearing on the disqualification issue.

Standard Of Review

This court will review the Bankruptcy Court's findings of fact under the clearly erroneous standard. *In Re Ruti-Sweetwater*, 836 F.2d 1263, 1266 (10th Cir. 1988). Great deference must be given to the factual determinations of the Bankruptcy Court, who assessed the demeanor and the tone of the witnesses' testimony. *Thompson v. Rockwell*

Corp., 811 F.2d 1345, 1350 (10th Cir. 1987).⁶

However, the disqualification order by the Bankruptcy Court will be reversed only if the court abused its discretion. *E.E.O.C. v. Orson H. Gygi Co., Inc.*, 749 F.2d 620 (10th Cir. 1984).⁷ An abuse of discretion is defined as a judicial action which is "arbitrary, capricious, whimsical, or manifestly unreasonable judgment." *United States v. Wright*, 826 F.2d 938, 943 (10th Cir. 1987).

Legal Analysis

The first issue is whether the Bankruptcy Court was clearly erroneous when it found that an attorney-client relationship existed between H&K's Kirschner and Whitefield.⁸ A federal district court in Kansas quoted the following passage when deciding whether an attorney-client relationship existed:

The authority of an attorney begins with his retainer; but the relation of attorney and client is not dependent on the payment of a fee, nor is a formal contract necessary to create this relationship. The contract may be implied from conduct of the parties. The employment is sufficiently established when it is shown that the advice and assistance of the attorney are sought and received in matters pertinent to his profession. *Professional Service Industry, Inc. v. Kimbrell*, 758 F.Supp. 676, 681 (D. Kan. 1991).⁹

⁶ Objective evidence also exists in this case, but the Bankruptcy Judge based his decision, in part, on the testimony of the eight witnesses during the April 24, 1991 hearing.

⁷ This Court cannot reverse the Bankruptcy Court's decision to disqualify without a definite and firm conviction that a clear error of judgment was made. *Mission Indians v. American Management & Amusement*, 840 F.2d 1394, 1408 (9th Cir. 1987).

⁸ This issue involves both questions of fact and a question of law. However, this Court finds that such a question is primarily one of fact, meaning the "clearly erroneous" standard will be used.

⁹ This decision was based on Kansas state law. However, this Court finds the decision persuasive. See 7 Am Jur.2d Attorneys at Law § 118, pp. 187-188. Appellant correctly states that the authority of a lawyer to act for his client in Oklahoma stems from agency law. See *City of Tulsa v. Oklahoma State Pension and Retirement Board*, 674 P.2d 10, 12 (Okla. 1983). But the Appellant nor this Court found a case where the test has been applied.

Although the evidence may not be overwhelming, the record indicates the following test was met. Whitefield paid Kirschner a \$20,000 retainer from his own personal account. Whitefield and Angleton both testified that they thought H&K's Kirschner was representing Whitefield and all the corporations in question. In addition, language in a series of letters marked Attorney-Client Communications/ Attorney Work Product from Kirschner to Whitefield indicated Kirschner was representing Whitefield.

Appellant points out evidence to the contrary such as testimony by Kirschner and Reiss. However, the function of this Court is not to re-weigh the evidence; the court's review is limited to a determination of whether the Bankruptcy Court's finding on this issue is clearly erroneous. Such a finding was not clearly erroneous.

The second issue on appeal is whether the Bankruptcy Court abused its discretion by disqualifying H&K from the instant proceeding. H&K argues that Kirschner represented Jobs -- not Whitefield or any of the debtor corporations. But the Bankruptcy Court found that Kirschner represented Whitefield and Jobs. That representation also became intertwined with all of the debtor corporations in a complex financial deal, which the Bankruptcy Court found to be enough to disqualify H&K.

The Tenth Circuit test is whether a substantial relationship exists between the instant suit and the matter in which Kirschner represented Jobs and Whitefield in obtaining financing from Fremont for the Southern acquisition. *See Smith v. Whatcott*, 757 F.2d 1098, 1100 (10th Cir. 1985).¹⁰ In applying the test, substantiality is present if the factual contexts of the two representations are similar or related. *Id.*

¹⁰ This case dealt with an interpretation of Utah law. However, since no Oklahoma case has been found focusing specifically on these issues, this Court applies the Smith test.

Once a substantial relationship has been found, a presumption arises that a client has indeed revealed facts to the attorney that require his disqualification. *Id.* The inquiry is restricted to the scope of the representation by the attorney. *Trone v. Smith*, 621 F.2d 994, 999 (9th Cir. 1980). The test does not require the former client to show that actual confidences were disclosed. *Id.*¹¹

Conclusion

Given the limited standard of review, affirming the Bankruptcy Court's decision on this issue is not difficult. Jobs, of which Whitefield owned 90 percent, needed financing to acquire Southern. Whitefield paid Kirschner a \$20,000 retainer to help him negotiate a deal with Fremont. On April 29, 1990, the testimony indicates that Kirschner played a major role in closing the multi-million dollar deal with Fremont so Jobs could acquire Southern.

The evidence also suggests that the loan agreements between Fremont and Jobs were complex and far-reaching. Fremont not only required MAPS to take out a loan; it demanded that the other debtor corporations (which Whitefield controlled) cross-guarantee the MAPS and Jobs' loan. Several months later, Fremont also loaned money to MATCO. Kirschner was involved in these negotiations, indicating that he did have access to financial documents for Whitefield and the corporations involved in this bankruptcy proceeding.

Furthermore, as the Bankruptcy Court indicated, the debt of the five debtor corporations in this case -- the debt that, in essence, prompted them to file bankruptcy --


¹¹ The Ninth Circuit explains the underlying concern in disqualification issues: "It is the possibility, or appearance of the possibility, that the attorney may have received confidential information during the prior representation that would be relevant to the subsequent matter in which disqualification is sought...It is the possibility of breach of confidence, not the fact of the breach, that triggers disqualification." See *Trone*, 621 F.2d at 999.

stemmed from the deal that Kirschner helped to negotiate with Fremont. In addition, Fremont has acquired new counsel.

The evidence shows that the factual contexts of the Southern acquisition and the bankruptcy proceedings of the debtor corporations are similar and related.¹² The Bankruptcy Court did not abuse its discretion in disqualifying H&K.

The test for disqualification does not require Whitefield to show that actual confidences were disclosed. It is the possibility that Kirschner may have received confidential information during the prior representation that courts try to avoid. As a result, the decision of the Bankruptcy Court is affirmed.

SO ORDERED THIS 29th day of January, 1992.


JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹² This Court finds Analytica, Inc. v. NPD Research, 708 F.2d 1263 (7th Cir. 1983) as persuasive. The facts, while slightly different, deal with a similar scenario.

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 29 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HASTIE AND KIRSCHNER, et al,
Plaintiffs,

v.

MID-AMERICA CONTROLS,
Defendant.

91-C-521-E
91-C-522-E
91-C-523-E
91-C-524-E ✓
91-C-525-E

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Transcript at page 231. Based on those facts, the Bankruptcy Court concluded:

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The Bankruptcy Court emphasized that its ruling hinged, in part, on the fact that the loans surrounding the Southern acquisition were cross-guaranteed and "cross-defaulted." *Id.* Furthermore, the Bankruptcy Court said it did not "believe that Mr. Whitefield should have to come into Chapter 11 and...see his former attorney sitting across the table representing the major creditor." *Id. at 235.*

On July 19, 1991, Fremont and H&K appealed the Bankruptcy Court's decision in each of the five bankruptcy proceedings. For purposes of this appeal, on October 2, 1991, the cases were consolidated. *See Order For Consolidation Of Appeals For Administrative Purposes (docket #5).* On November 4, 1991, the court conducted an advisory hearing on the disqualification issue.

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This court will review the Bankruptcy Court's findings of fact under the clearly erroneous standard. *In Re Ruti-Sweetwater*, 836 F.2d 1263, 1266 (10th Cir. 1988). Great deference must be given to the factual determinations of the Bankruptcy Court, who assessed the demeanor and the tone of the witnesses' testimony. *Thompson v. Rockwell*

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Legal Analysis

The first issue is whether the Bankruptcy Court was clearly erroneous when it found that an attorney-client relationship existed between H&K's Kirschner and Whitefield.⁸ A federal district court in Kansas quoted the following passage when deciding whether an attorney-client relationship existed:

The authority of an attorney begins with his retainer; but the relation of attorney and client is not dependent on the payment of a fee, nor is a formal contract necessary to create this relationship. The contract may be implied from conduct of the parties. The employment is sufficiently established when it is shown that the advice and assistance of the attorney are sought and received in matters pertinent to his profession. *Professional Service Industry, Inc. v. Kimbrell*, 758 F.Supp. 676, 681 (D. Kan. 1991).⁹

⁶ Objective evidence also exists in this case, but the Bankruptcy Judge based his decision, in part, on the testimony of the eight witnesses during the April 24, 1991 hearing.

⁷ This Court cannot reverse the Bankruptcy Court's decision to disqualify without a definite and firm conviction that a clear error of judgment was made. *Mission Indians v. American Management & Amusement*, 840 F.2d 1394, 1408 (9th Cir. 1987).

⁸ This issue involves both questions of fact and a question of law. However, this Court finds that such a question is primarily one of fact, meaning the "clearly erroneous" standard will be used.

⁹ This decision was based on Kansas state law. However, this Court finds the decision persuasive. See 7 Am Jur.2d Attorneys at Law § 118, pp. 187-188. Appellant correctly states that the authority of a lawyer to act for his client in Oklahoma stems from agency law. See *City of Tulsa v. Oklahoma State Pension and Retirement Board*, 674 P.2d 10, 12 (Okla. 1983). But the Appellant nor this Court found a case where the test has been applied.

Although the evidence may not be overwhelming, the record indicates the following test was met. Whitefield paid Kirschner a \$20,000 retainer from his own personal account. Whitefield and Angleton both testified that they thought H&K's Kirschner was representing Whitefield and all the corporations in question. In addition, language in a series of letters marked Attorney-Client Communications/ Attorney Work Product from Kirschner to Whitefield indicated Kirschner was representing Whitefield.

Appellant points out evidence to the contrary such as testimony by Kirschner and Reiss. However, the function of this Court is not to re-weigh the evidence; the court's review is limited to a determination of whether the Bankruptcy Court's finding on this issue is clearly erroneous. Such a finding was not clearly erroneous.

The second issue on appeal is whether the Bankruptcy Court abused its discretion by disqualifying H&K from the instant proceeding. H&K argues that Kirschner represented Jobs -- not Whitefield or any of the debtor corporations. But the Bankruptcy Court found that Kirschner represented Whitefield and Jobs. That representation also became intertwined with all of the debtor corporations in a complex financial deal, which the Bankruptcy Court found to be enough to disqualify H&K.

The Tenth Circuit test is whether a substantial relationship exists between the instant suit and the matter in which Kirschner represented Jobs and Whitefield in obtaining financing from Fremont for the Southern acquisition. *See Smith v. Whatcott*, 757 F.2d 1098, 1100 (10th Cir. 1985).¹⁰ In applying the test, substantiality is present if the factual contexts of the two representations are similar or related. *Id.*

¹⁰ This case deals with an interpretation of Utah law. However, since no Oklahoma case has been found focusing specifically on these issues, this Court applies the Smith test.

Once a substantial relationship has been found, a presumption arises that a client has indeed revealed facts to the attorney that require his disqualification. *Id.* The inquiry is restricted to the scope of the representation by the attorney. *Trone v. Smith*, 621 F.2d 994, 999 (9th Cir. 1980). The test does not require the former client to show that actual confidences were disclosed. *Id.*¹¹

Conclusion

Given the limited standard of review, affirming the Bankruptcy Court's decision on this issue is not difficult. Jobs, of which Whitefield owned 90 percent, needed financing to acquire Southern. Whitefield paid Kirschner a \$20,000 retainer to help him negotiate a deal with Fremont. On April 29, 1990, the testimony indicates that Kirschner played a major role in closing the multi-million dollar deal with Fremont so Jobs could acquire Southern.

The evidence also suggests that the loan agreements between Fremont and Jobs were complex and far-reaching. Fremont not only required MAPS to take out a loan; it demanded that the other debtor corporations (which Whitefield controlled) cross-guarantee the MAPS and Jobs' loan. Several months later, Fremont also loaned money to MATCO. Kirschner was involved in these negotiations, indicating that he did have access to financial documents for Whitefield and the corporations involved in this bankruptcy proceeding.

Furthermore, as the Bankruptcy Court indicated, the debt of the five debtor corporations in this case -- the debt that, in essence, prompted them to file bankruptcy --


¹¹ The Ninth Circuit explains the underlying concern in disqualification issues: "It is the possibility, or appearance of the possibility, that the attorney may have received confidential information during the prior representation that would be relevant to the subsequent matter in which disqualification is sought...It is the possibility of breach of confidence, not the fact of the breach, that triggers disqualification." See *Trone*, 621 F.2d at 999.

stemmed from the deal that Kirschner helped to negotiate with Fremont. In addition, Fremont has acquired new counsel.

The evidence shows that the factual contexts of the Southern acquisition and the bankruptcy proceedings of the debtor corporations are similar and related.¹² The Bankruptcy Court did not abuse its discretion in disqualifying H&K.

The test for disqualification does not require Whitefield to show that actual confidences were disclosed. It is the possibility that Kirschner may have received confidential information during the prior representation that courts try to avoid. As a result, the decision of the Bankruptcy Court is **affirmed**.

SO ORDERED THIS 29th day of January, 1992.


JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹² *This Court finds Analytica, Inc. v. NPD Research, 708 F.2d 1263 (7th Cir. 1983) as persuasive. The facts, while slightly different, deal with a similar scenario.*

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 29 1992

Richard M. Lawrence, Clerk
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91-C-521-E
91-C-522-E
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ORDER

Now before this Court is an appeal from the United States Bankruptcy Court in the Northern District of Oklahoma. The issue is whether Appellant law firm should be disqualified from the instant case because of its former involvement with Appellee corporations. The Bankruptcy Court held that the firm should be disqualified. Based on the reasoning below, this Court **AFFIRMS** the Bankruptcy Court's decision.

Summary Of Facts

The backdrop of this case focuses on the relationship of eight corporations, an Oklahoma City law firm and Lynn Whitefield. Five of the corporations, controlled by Whitefield, are in bankruptcy proceedings -- Mid-Americas Process Services, Inc. ("MAPS"), Mid-America Controls, Inc. ("MAC"), Mid-America Machinery Association, Inc. ("MAMA"), MAPS International Inc. and Mid-America Acquisition And Trading Company ("MATCO").¹

¹ According to Appellees' brief, Whitefield was the record owner of 50% of the stock of three corporations in early 1990. He eventually was the owner of 100 % of the companies.

Prior to April of 1990, Whitefield targeted Southern Standard Fittings Co., a Opeolousas, Louisiana corporation that had filed for bankruptcy, for acquisition. In his attempt to acquire Southern, Whitefield bought Jobs For St. Landry Parish ("Jobs"), a Louisiana corporation formed by Opeolousas residents.² Fremont Financial Corporation ("Fremont") would eventually finance Whitefield's acquisition of Southern.

The specific facts are as follows: On March 10, 1990, Lynn Whitefield paid Hastie & Kirschner ("H&K"), an Oklahoma City law firm, a \$20,000 retainer to help him finance the acquisition of Southern Standard Fittings. *Transcript Of Proceedings, April 24, 1990 hearing, page 19*. The exact nature of what legal services were rendered are disputed by the parties in this case, but the Bankruptcy Court found that Whitefield hired the firm to be his counsel.

On April 29, 1990, H&K attorney Michael Kirschner huddled with Whitefield, officials of Whitefield's corporations, Fremont representatives and others for more than 14 hours. At the end of the meeting, the parties closed a multi-million dollar deal where Fremont would finance the Southern acquisition for Jobs. Part of the terms of the deal included a separate loan from Fremont to MAPS to finance the latter's revolving loan of credit. In addition, several of the Whitefield-debtor corporations guaranteed the two loans.³

² Residents formed the corporation in an effort to save Southern, which was one of the city's major employers.

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Nearly a year later, on April 12, 1991, MAPS and MATCO filed for Chapter 11 bankruptcy. *Appellees' Combined Brief In Chief, page 9 (docket #6)*. Five days later, MAPS International, MAC and MAMA filed for Chapter 11 bankruptcy. *Id.* Fremont -- the largest secured creditor of the five Whitefield corporations -- is a party in the bankruptcy proceedings. Kirschner, the same attorney that had represented Whitefield in the Southern acquisition, entered the case as Fremont's counsel. Fremont now has hired new counsel.

On April 18, 1991, Whitefield and the five corporations filed motions to disqualify H&K.⁴ Six days later, the Bankruptcy Court held a hearing on the motion. Eight persons testified, including attorney Kirschner and Whitefield. Among the evidence presented was several letters from Kirschner to Whitefield. Below is a summary of that hearing and the subsequent ruling from the Bankruptcy Court.

April 24, 1991 Bankruptcy Court Hearing

Whitefield testified that he paid Kirschner \$20,000 as a retainer for legal services, but admitted no written contract existed between him and the attorney. *Transcript at pages 31-34*. Whitefield also testified that he believed Kirschner was representing his personal interests in addition to those of Jobs and the other corporations in question. *Id. at pages 36-38*.⁵ Whitefield's testimony also indicated that several law firms also were representing MAPS and MATCO. *Id. at 31, 47 and 50*.

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Gary Reiss, Fremont's counsel, testified that Kirschner stated at the closing of the Southern acquisition that H&K was only representing Jobs and not MAPS. *Id. at 85-86.* In addition, Michael Freeman, who helped Whitefield acquire Jobs, testified that Kirschner said that he was only representing Jobs. *Id. at 102, 118.* Kirschner also testified that he did not personally represent Whitefield.

In addition to testimony, several letters from Kirschner to Whitefield were introduced as evidence. Each of the letters were marked as Privileged Attorney-Client Communication/Attorney Work Product. *See Exhibits attached to Brief In Support Of Motion To Determine Conflict Of Interest Of Counsel And For Order Disqualifying Counsel, Volume I of Bankruptcy Record.* Such letters were sent to Whitefield's home address.

An August 11, 1990 letter, written by Kirschner to Whitefield, concluded: "**Our firm will render further services on your behalf only upon your direct request.**" *Id.* In addition, a September 5, 1990 letter discussing pending legal fees of H&K stated that Whitefield indicated on August 8, 1990 that he would like H&K to continue to be engaged on Whitefield's behalf. *Id.*

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Legal Analysis

The first issue is whether the Bankruptcy Court was clearly erroneous when it found that an attorney-client relationship existed between H&K's Kirschner and Whitefield.⁸ A federal district court in Kansas quoted the following passage when deciding whether an attorney-client relationship existed:

The authority of an attorney begins with his retainer; but the relation of attorney and client is not dependent on the payment of a fee, nor is a formal contract necessary to create this relationship. The contract may be implied from conduct of the parties. The employment is sufficiently established when it is shown that the advice and assistance of the attorney are sought and received in matters pertinent to his profession. *Professional Service Industry, Inc. v. Kimbrell*, 758 F.Supp. 676, 681 (D. Kan. 1991).⁹

⁶ Objective evidence also exists in this case, but the Bankruptcy Judge based his decision, in part, on the testimony of the eight witnesses during the April 24, 1991 hearing.

⁷ This Court cannot reverse the Bankruptcy Court's decision to disqualify without a definite and firm conviction that a clear error of judgment was made. *Mission Indians v. American Management & Amusement*, 840 F.2d 1394, 1408 (9th Cir. 1987).

⁸ This issue involves both questions of fact and a question of law. However, this Court finds that such a question is primarily one of fact, meaning the "clearly erroneous" standard will be used.

⁹ This decision was based on Kansas state law. However, this Court finds the decision persuasive. See 7 Am Jur.2d Attorneys at Law § 118, pp. 187-188. Appellant correctly states that the authority of a lawyer to act for his client in Oklahoma stems from agency law. See *City of Tulsa v. Oklahoma State Pension and Retirement Board*, 674 P.2d 10, 12 (Okla. 1983). But the Appellant nor this Court found a case where the test has been applied.

Although the evidence may not be overwhelming, the record indicates the following test was met. Whitefield paid Kirschner a \$20,000 retainer from his own personal account. Whitefield and Angleton both testified that they thought H&K's Kirschner was representing Whitefield and all the corporations in question. In addition, language in a series of letters marked Attorney-Client Communications/ Attorney Work Product from Kirschner to Whitefield indicated Kirschner was representing Whitefield.

Appellant points out evidence to the contrary such as testimony by Kirschner and Reiss. However, the function of this Court is not to re-weigh the evidence; the court's review is limited to a determination of whether the Bankruptcy Court's finding on this issue is clearly erroneous. Such a finding was not clearly erroneous.

The second issue on appeal is whether the Bankruptcy Court abused its discretion by disqualifying H&K from the instant proceeding. H&K argues that Kirschner represented Jobs -- not Whitefield or any of the debtor corporations. But the Bankruptcy Court found that Kirschner represented Whitefield and Jobs. That representation also became intertwined with all of the debtor corporations in a complex financial deal, which the Bankruptcy Court found to be enough to disqualify H&K.

The Tenth Circuit test is whether a substantial relationship exists between the instant suit and the matter in which Kirschner represented Jobs and Whitefield in obtaining financing from Fremont for the Southern acquisition. *See Smith v. Whatcott*, 757 F.2d 1098, 1100 (10th Cir. 1985).¹⁰ In applying the test, substantiality is present if the factual contexts of the two representations are similar or related. *Id.*

¹⁰ This case dealt with an interpretation of Utah law. However, since no Oklahoma case has been found focusing specifically on these issues, this Court applies the *Smith* test.

Once a substantial relationship has been found, a presumption arises that a client has indeed revealed facts to the attorney that require his disqualification. *Id.* The inquiry is restricted to the scope of the representation by the attorney. *Trone v. Smith*, 621 F.2d 994, 999 (9th Cir. 1980). The test does not require the former client to show that actual confidences were disclosed. *Id.*¹¹

Conclusion

Given the limited standard of review, affirming the Bankruptcy Court's decision on this issue is not difficult. Jobs, of which Whitefield owned 90 percent, needed financing to acquire Southern. Whitefield paid Kirschner a \$20,000 retainer to help him negotiate a deal with Fremont. On April 29, 1990, the testimony indicates that Kirschner played a major role in closing the multi-million dollar deal with Fremont so Jobs could acquire Southern.

The evidence also suggests that the loan agreements between Fremont and Jobs were complex and far-reaching. Fremont not only required MAPS to take out a loan; it demanded that the other debtor corporations (which Whitefield controlled) cross-guarantee the MAPS and Jobs' loan. Several months later, Fremont also loaned money to MATCO. Kirschner was involved in these negotiations, indicating that he did have access to financial documents for Whitefield and the corporations involved in this bankruptcy proceeding.

Furthermore, as the Bankruptcy Court indicated, the debt of the five debtor corporations in this case -- the debt that, in essence, prompted them to file bankruptcy --


¹¹ The Ninth Circuit explains the underlying concern in disqualification issues: "It is the possibility, or appearance of the possibility, that the attorney may have received confidential information during the prior representation that would be relevant to the subsequent matter in which disqualification is sought...It is the possibility of breach of confidence, not the fact of the breach, that triggers disqualification." See *Trone*, 621 F.2d at 999.

stemmed from the deal that Kirschner helped to negotiate with Fremont. In addition, Fremont has acquired new counsel.

The evidence shows that the factual contexts of the Southern acquisition and the bankruptcy proceedings of the debtor corporations are similar and related.¹² The Bankruptcy Court did not abuse its discretion in disqualifying H&K.

The test for disqualification does not require Whitefield to show that actual confidences were disclosed. It is the possibility that Kirschner may have received confidential information during the prior representation that courts try to avoid. As a result, the decision of the Bankruptcy Court is **affirmed**.

SO ORDERED THIS 29th day of January, 1992.


JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹² *This Court finds Analytica, Inc. v. NPD Research, 708 F.2d 1263 (7th Cir. 1983) as persuasive. The facts, while slightly different, deal with a similar scenario.*

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

JAN 29 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HASTIE AND KIRSCHNER, et al,

Plaintiffs,

v.

MID-AMERICA CONTROLS,

Defendant.

91-C-521-E ✓
91-C-522-E
91-C-523-E
91-C-524-E
91-C-525-E

ORDER

Now before this Court is an appeal from the United States Bankruptcy Court in the Northern District of Oklahoma. The issue is whether Appellant law firm should be disqualified from the instant case because of its former involvement with Appellee corporations. The Bankruptcy Court held that the firm should be disqualified. Based on the reasoning below, this Court **AFFIRMS** the Bankruptcy Court's decision.

Summary Of Facts

The backdrop of this case focuses on the relationship of eight corporations, an Oklahoma City law firm and Lynn Whitefield. Five of the corporations, controlled by Whitefield, are in bankruptcy proceedings -- Mid-Americas Process Services, Inc. ("MAPS"), Mid-America Controls, Inc. ("MAC"), Mid-America Machinery Association, Inc. ("MAMA"), MAPS International Inc. and Mid-America Acquisition And Trading Company ("MATCO").¹

¹ According to Appellees' brief, Whitefield was the record owner of 50% of the stock of three corporations in early 1990. He eventually was the owner of 100 % of the companies.

Prior to April of 1990, Whitefield targeted Southern Standard Fittings Co., a Opeolousas, Louisiana corporation that had filed for bankruptcy, for acquisition. In his attempt to acquire Southern, Whitefield bought Jobs For St. Landry Parish ("Jobs"), a Louisiana corporation formed by Opeolousas residents.² Fremont Financial Corporation ("Fremont") would eventually finance Whitefield's acquisition of Southern.

The specific facts are as follows: On March 10, 1990, Lynn Whitefield paid Hastie & Kirschner ("H&K"), an Oklahoma City law firm, a \$20,000 retainer to help him finance the acquisition of Southern Standard Fittings. *Transcript Of Proceedings, April 24, 1990 hearing, page 19*. The exact nature of what legal services were rendered are disputed by the parties in this case, but the Bankruptcy Court found that Whitefield hired the firm to be his counsel.

On April 29, 1990, H&K attorney Michael Kirschner huddled with Whitefield, officials of Whitefield's corporations, Fremont representatives and others for more than 14 hours. At the end of the meeting, the parties closed a multi-million dollar deal where Fremont would finance the Southern acquisition for Jobs. Part of the terms of the deal included a separate loan from Fremont to MAPS to finance the latter's revolving loan of credit. In addition, several of the Whitefield-debtor corporations guaranteed the two loans.³

² Residents formed the corporation in an effort to save Southern, which was one of the city's major employers.

³ On April 29, 1991, Fremont made a loan to Jobs and one to MAPS. April 29, 1990 Loan And Security Agreement Between Fremont and Jobs, Fremont Exhibit 1, April 24, 1991 hearing, and April 29, 1990 Loan and Security Agreement Between Fremont and MAPS, Fremont Exhibit No. 1, April 24, 1991 hearing. Also executed on that day were guaranties for the two loans. MAPS, MAC and MAPS International guaranteed the Jobs loan, and Jobs, MAC, and MAPS guaranteed the MAPS loan. On June 27, 1990, Fremont made a loan to MATCO. See Complaint, Whitefield Exhibit 15, April 24, 1990 hearing.

Nearly a year later, on April 12, 1991, MAPS and MATCO filed for Chapter 11 bankruptcy. *Appellees' Combined Brief In Chief, page 9 (docket #6)*. Five days later, MAPS International, MAC and MAMA filed for Chapter 11 bankruptcy. *Id.* Fremont -- the largest secured creditor of the five Whitefield corporations -- is a party in the bankruptcy proceedings. Kirschner, the same attorney that had represented Whitefield in the Southern acquisition, entered the case as Fremont's counsel. Fremont now has hired new counsel.

On April 18, 1991, Whitefield and the five corporations filed motions to disqualify H&K.⁴ Six days later, the Bankruptcy Court held a hearing on the motion. Eight persons testified, including attorney Kirschner and Whitefield. Among the evidence presented was several letters from Kirschner to Whitefield. Below is a summary of that hearing and the subsequent ruling from the Bankruptcy Court.

April 24, 1991 Bankruptcy Court Hearing

Whitefield testified that he paid Kirschner \$20,000 as a retainer for legal services, but admitted no written contract existed between him and the attorney. *Transcript at pages 31-34*. Whitefield also testified that he believed Kirschner was representing his personal interests in addition to those of Jobs and the other corporations in question. *Id. at pages 36-38*.⁵ Whitefield's testimony also indicated that several law firms also were representing MAPS and MATCO. *Id. at 31, 47 and 50*.

⁴ See *Debtors' Motion To Determine Conflict Of Interest By Fremont Financial Corporation Counsel And For Order Disqualifying Counsel, Volume I, Record On Appeal*.

⁵ Whitefield testified: "There was no doubt whatsoever in my mind that Mr. Kirschner was representing me and my interests. Whether or not those interests were Jobs for Saini Landry or MAPS or whoever. And I am -- I'm appalled that Mr. Kirschner's memory would be so dim after such a period of time." *Id. at 38*.

Jack Angleton, who was employed by MAPS during the Southern acquisition, testified that he believed Kirschner was representing the interests of Whitefield and that of the five corporations, including MAPS. *Id. at 76.*

Gary Reiss, Fremont's counsel, testified that Kirschner stated at the closing of the Southern acquisition that H&K was only representing Jobs and not MAPS. *Id. at 85-86.* In addition, Michael Freeman, who helped Whitefield acquire Jobs, testified that Kirschner said that he was only representing Jobs. *Id. at 102, 118.* Kirschner also testified that he did not personally represent Whitefield.

In addition to testimony, several letters from Kirschner to Whitefield were introduced as evidence. Each of the letters were marked as Privileged Attorney-Client Communication/Attorney Work Product. *See Exhibits attached to Brief In Support Of Motion To Determine Conflict Of Interest Of Counsel And For Order Disqualifying Counsel, Volume I of Bankruptcy Record.* Such letters were sent to Whitefield's home address.

An August 11, 1990 letter, written by Kirschner to Whitefield, concluded: "**Our firm will render further services on your behalf only upon your direct request.**" *Id.* In addition, a September 5, 1990 letter discussing pending legal fees of H&K stated that Whitefield indicated on August 8, 1990 that he would like H&K to continue to be engaged on Whitefield's behalf. *Id.*

As findings of fact, the Bankruptcy Court held the following: 1) Kirschner was acting as attorney for Whitefield and for Jobs; 2) Kirschner was not acting as attorney for any of the five corporations in this bankruptcy proceeding and 3) Whitefield and his five corporations were intertwined with Fremont because of the Southern financing agreement.

Transcript at page 231. Based on those facts, the Bankruptcy Court concluded:

And I'm going to rule that he cannot [represent Fremont in the instant litigation] for the following reasons. Whitefield owns all of the stock of every one of these corporations or substantially all. He's an officer, he's a director and he's the CEO of these companies. These five companies that are in Chapter 11 are Mr. Whitefield's businesses...Therefore, if you cannot represent Fremont against Whitefield, I don't feel you can represent Fremont against Whitefield's solely owned corporations. I believe this is particularly true when we're dealing with these interrelated loans. These are all the same transaction. You can't separate them out...It is the same debt. It is the same transaction. *Transcript at pp. 233-234.*

The Bankruptcy Court emphasized that its ruling hinged, in part, on the fact that the loans surrounding the Southern acquisition were cross-guaranteed and "cross-defaulted." *Id.* Furthermore, the Bankruptcy Court said it did not "believe that Mr. Whitefield should have to come into Chapter 11 and...see his former attorney sitting across the table representing the major creditor." *Id. at 235.*

On July 19, 1991, Fremont and H&K appealed the Bankruptcy Court's decision in each of the five bankruptcy proceedings. For purposes of this appeal, on October 2, 1991, the cases were consolidated. *See Order For Consolidation Of Appeals For Administrative Purposes (docket #5).* On November 4, 1991, the court conducted an advisory hearing on the disqualification issue.

Standard Of Review

This court will review the Bankruptcy Court's findings of fact under the clearly erroneous standard. *In Re Ruti-Sweetwater*, 836 F.2d 1263, 1266 (10th Cir. 1988). Great deference must be given to the factual determinations of the Bankruptcy Court, who assessed the demeanor and the tone of the witnesses' testimony. *Thompson v. Rockwell*

Corp., 811 F.2d 1345, 1350 (10th Cir. 1987).⁶

However, the disqualification order by the Bankruptcy Court will be reversed only if the court abused its discretion. *E.E.O.C. v. Orson H. Gygi Co., Inc.*, 749 F.2d 620 (10th Cir. 1984).⁷ An abuse of discretion is defined as a judicial action which is "arbitrary, capricious, whimsical, or manifestly unreasonable judgment." *United States v. Wright*, 826 F.2d 938, 943 (10th Cir. 1987).

Legal Analysis

The first issue is whether the Bankruptcy Court was clearly erroneous when it found that an attorney-client relationship existed between H&K's Kirschner and Whitefield.⁸ A federal district court in Kansas quoted the following passage when deciding whether an attorney-client relationship existed:

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⁷ This Court cannot reverse the Bankruptcy Court's decision to disqualify without a definite and firm conviction that a clear error of judgment was made. *Mission Indians v. American Management & Amusement*, 840 F.2d 1394, 1408 (9th Cir. 1987).

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Although the evidence may not be overwhelming, the record indicates the following test was met. Whitefield paid Kirschner a \$20,000 retainer from his own personal account. Whitefield and Angleton both testified that they thought H&K's Kirschner was representing Whitefield and all the corporations in question. In addition, language in a series of letters marked Attorney-Client Communications/ Attorney Work Product from Kirschner to Whitefield indicated Kirschner was representing Whitefield.

Appellant points out evidence to the contrary such as testimony by Kirschner and Reiss. However, the function of this Court is not to re-weigh the evidence; the court's review is limited to a determination of whether the Bankruptcy Court's finding on this issue is clearly erroneous. Such a finding was not clearly erroneous.

The second issue on appeal is whether the Bankruptcy Court abused its discretion by disqualifying H&K from the instant proceeding. H&K argues that Kirschner represented Jobs -- not Whitefield or any of the debtor corporations. But the Bankruptcy Court found that Kirschner represented Whitefield and Jobs. That representation also became intertwined with all of the debtor corporations in a complex financial deal, which the Bankruptcy Court found to be enough to disqualify H&K.

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¹⁰ This case dealt with an interpretation of Utah law. However, since no Oklahoma case has been found focusing specifically on these issues, this Court applies the *Smith* test.

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Conclusion

Given the limited standard of review, affirming the Bankruptcy Court's decision on this issue is not difficult. Jobs, of which Whitefield owned 90 percent, needed financing to acquire Southern. Whitefield paid Kirschner a \$20,000 retainer to help him negotiate a deal with Fremont. On April 29, 1990, the testimony indicates that Kirschner played a major role in closing the multi-million dollar deal with Fremont so Jobs could acquire Southern.

The evidence also suggests that the loan agreements between Fremont and Jobs were complex and far-reaching. Fremont not only required MAPS to take out a loan; it demanded that the other debtor corporations (which Whitefield controlled) cross-guarantee the MAPS and Jobs' loan. Several months later, Fremont also loaned money to MATCO. Kirschner was involved in these negotiations, indicating that he did have access to financial documents for Whitefield and the corporations involved in this bankruptcy proceeding.

Furthermore, as the Bankruptcy Court indicated, the debt of the five debtor corporations in this case -- the debt that, in essence, prompted them to file bankruptcy --

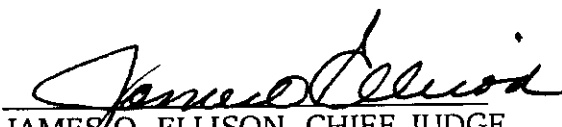
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stemmed from the deal that Kirschner helped to negotiate with Fremont. In addition, Fremont has acquired new counsel.

The evidence shows that the factual contexts of the Southern acquisition and the bankruptcy proceedings of the debtor corporations are similar and related.¹² The Bankruptcy Court did not abuse its discretion in disqualifying H&K.

The test for disqualification does not require Whitefield to show that actual confidences were disclosed. It is the possibility that Kirschner may have received confidential information during the prior representation that courts try to avoid. As a result, the decision of the Bankruptcy Court is **affirmed**.

SO ORDERED THIS 29th day of January, 1992.


JAMES O. ELLISON, CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹² This Court finds Analytica, Inc. v. NPD Research, 708 F.2d 1263 (7th Cir. 1983) as persuasive. The facts, while slightly different, deal with a similar scenario.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 29 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

DANNY L. SCHNEIDER, and
MARY M. SCHNEIDER,

Plaintiffs,

v.

BRADD B. BINGHAM and
BROOKS E. BINGHAM,

Defendants.

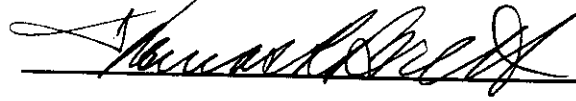
No. 90-C-1007-B

O R D E R

The Court called this case on the jury trial docket of January 29, 1992. It came to the attention of the Court at that time that instead of filing an agreed pretrial conference order as required by Local Rule 17.2, the parties had filed separate proposed pretrial conference orders without the signature of opposing counsel. Although each proposed order was signed by the authoring counsel subscribing that "this order supersedes all pleadings," neither proposed order set forth any basis for this Court's jurisdiction - diversity of citizenship or amount in controversy - nor could any be gleaned from the general statement of facts in the orders. In each proposed pretrial order, the defendants asserted that this Court was without jurisdiction.

The Court, therefore, dismisses the case for want of subject matter jurisdiction. If timely filed, the plaintiffs may proceed in the appropriate state court.

IT IS SO ORDERED, this 29th day of January, 1992.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

entered

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WHEATLEY GASO, INC.,
Plaintiff,
vs.
ARROW VALVE COMPANY, INC.,
Defendant.

}
}
}
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No. 90-C-561-C ✓

FILED

JAN 28 1992

Richard J. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

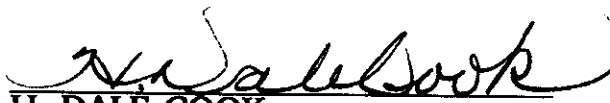
ORDER

Before the Court is the defendant's motion for attorney fees pursuant to 15 U.S.C §1117 and sanctions pursuant to the provisions of Rule 11 F.R.C.P.

Title 15 U.S.C. §1117 refers to §1125(a) which provides: "The Court in exceptional cases may award reasonable attorney fees to the prevailing party."

The Court finds that this is not an exceptional case within the meaning of §1125(a). Plaintiff had a reasonable basis for pursuing its claim and the defendant had a reasonable basis for its defense. Accordingly the Court finds and concludes that each party must provide for its own attorney fees.

IT IS SO ORDERED this 28th day of January, 1992.


H. DALE COOK
United States District Judge

126

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

entered

WHEATLEY GASO, INC.,
Plaintiff,
vs.
ARROW VALVE COMPANY, INC.,
Defendant.

No. 90-C-561-C ✓

FILED

JAN 28 1992

Richard J. Ferguson, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

Before the Court is plaintiff's appeal of the Clerk's award of costs in favor of the defendant. Plaintiff objects asserting that the defendant is not the prevailing party in this action.

On December 2, 1991 a jury returned a verdict in favor of defendant on plaintiff's claims for damages under the Oklahoma Deceptive Trade Practices Act, 78 O.S. §53 and the Lanham Act, 15 U.S.C. §1125(a). The Clerk awarded costs pursuant to the jury verdict.

The Court finds and concludes that the award of costs in favor of the defendant on plaintiff's claims for damages is proper.

Accordingly plaintiff's objection to the award of costs in favor of the defendant is hereby denied.

IT IS SO ORDERED this 28th day of January, 1992.

H. Dale Cook
H. DALE COOK
United States District Judge

127

entered

JAN 28 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
EASTERN DISTRICT OF OKLAHOMA

No. 90-C-561-C

The Court has before it plaintiff's motion for judgment as a matter of law, motion to amend the verdict and alternatively a motion for new trial. In essence plaintiff contends that the Court committed error in denying its request to admit the October 31, 1991 order in evidence to inform the jury that defendant's advertising of the 1" valves was determined by the Court to be false within the meaning of section 43(a)(2) of the Lanham Act, 15 U.S.C §1125(a)(2).

The Court finds plaintiff's arguments without merit. Plaintiff did not offer any evidence at trial to show it has suffered any damage from defendant's false advertising of the 1" valves. Nor did plaintiff distinguish evidence relating to the 1" valves from its other valves.

Accordingly, plaintiff Wheatley Gaso, Inc.'s motion for judgment as a matter of law, motion to amend the verdict and alternatively for new trial is denied.

IT IS SO ORDERED this 28th day of January, 1992.

A handwritten signature in cursive script, appearing to read "H. Dale Cook", written over a horizontal line.

H. DALE COOK

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1992

RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

CHAMP JENKINS,

Plaintiff,

vs.

LOUIS W. SULLIVAN, M.D.,
SECRETARY OF HEALTH AND
HUMAN SERVICES,

Defendant.

No. 88-C-677-C

ORDER

Before the Court is the motion of the plaintiff for attorney fees under the Equal Access to Justice Act (EAJA). This action initially came before the Court on plaintiff's claim for social security benefits pursuant to 42 U.S.C. §405(g). This Court concluded that the decision of the ALJ, that plaintiff was not sufficiently impaired to receive benefits, was supported by substantial evidence. On appeal, the Tenth Circuit agreed with this Court that plaintiff did not meet one of the listed impairments under the regulations, but that the case needed to be remanded "for further development of the record at step four to determine whether plaintiff remains unable to return to his prior relevant work." (Order and Judgment at 9). Upon remand, the ALJ issued a decision favorable to plaintiff, granting disability benefits. Plaintiff now seeks an award of fees.

28 U.S.C. §2412(d)(1)(A) provides in part that

a court shall award to a prevailing party other than the United States fees and other expenses, in addition to any costs awarded pursuant to subsection (a), ... unless the court finds that the position of the United States was substantially justified or that special circumstances make an award unjust.

The government bears the burden of proving that its position is substantially justified. Estate of Smith v. O'Halloran, 930 F.2d 1496, 1501 (10th Cir. 1991). The test is essentially one of reasonableness in both law and fact. Fulton v. Heckler, 784 F.2d 348, 349 (10th Cir. 1986). See also Gatson v. Bowen, 854 F.2d 379, 380 (10th Cir. 1988) (detailing three-part reasonableness test). The "position" of the United States includes both the administrative action and the litigation position. See Fulton, 784 F.2d at 349.

Here, the Court need not launch into a detailed analysis of the record because as defendant points out (remedying a disturbing silence in plaintiff's brief), the award upon remand was based upon new evidence and a new ground, alcoholism.¹ The ALJ specifically found on remand that "[b]ased upon [plaintiff's] physical impairments and/or limitations, the Administrative Law Judge would again deny this claim." See ALJ Decision at 7. However, concluding that chronic alcoholism alone can justify a finding of disability under the Social Security Act,² the ALJ made a decision favorable to plaintiff. Inasmuch as the favorable decision was based upon arguments and evidence only presented on remand to the


¹In the prior proceedings, plaintiff alleged that he was disabled because of rheumatoid arthritis and ankylosing spondylitis.

²Citing Burton v. Heckler, 622 F.Supp. 1140 (D.C. Utah 1985) and Griffis v. Weinberger, 509 F.2d 837 (9th Cir. 1975).

ALJ, an award of fees is not appropriate. See Reeves v. Bowen, 841 F.2d 383 (11th Cir.), order on reh'g, 860 F.2d 1009 (11th Cir. 1988).

It is the Order of the Court that the motion of the plaintiff for attorney fees is hereby denied.

IT IS SO ORDERED this 28th day of January, 1992.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

WENDY SEGROVES, a minor, by }
and through her natural mother, }
GAYLE JEAN SEGROVES, as }
next friend, }
}

Plaintiff, }

vs. }

DAVID HARTSON, }

Defendant. }

FILED

JAN 28 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

No. 91-C-182-C/

ORDER

Before the Court is the motion of the defendant, David Hartson, for the Court to certify an interlocutory appeal of the October 18, 1991 Order entered in this case to the Tenth Circuit Court of Appeals. Plaintiff objects to defendant's request.

Pursuant to 28 U.S.C §1292 the Court finds that the Order of October 18, 1991 overruling defendant's motion to dismiss raises issues involving a controlling question of law as to which there is substantial grounds for difference of opinion and that an immediate appeal from the Order may materially advance termination of the litigation. The Court therefore finds that the motion of defendant for certification of an interlocutory appeal to the Tenth Circuit Court of Appeals should be and hereby is granted. The case is hereby stayed pending final determination of defendant's interlocutory appeal.

Accordingly, it is the Order of the Court that defendant David Hartson is hereby granted leave to file an interlocutory appeal to the Tenth Circuit Court of Appeals from the October 18, 1991 Order entered in this action.

IT IS SO ORDERED this 27th day of January, 1992.


H. DALE COOK

United States District Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1992

RICHARD W. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

DON GLIDEWELL,

Plaintiff,

vs.

CITGO PETROLEUM CORPORATION,

Defendant.

No. 91-C-753-C

ORDER

The court has reviewed the complaint and answer filed in this case and sua sponte finds that Count Two as set forth in the complaint should be dismissed. Plaintiff brings this action under the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621 et seq., as amended and, in addition, asserts a second claim under state law for wrongful discharge in violation of public policy.


Apparently in relying on Burk v. K-Mark, 770 P.2d 24 (Okla. 1989), plaintiff alleges in his second claim that his discharge, based on age, was tortious under state law. Plaintiff contends that age discrimination is contrary to the clear mandate of public policy of the State of Oklahoma. In Burk, the Oklahoma Supreme Court stated that it adopted the exception to the terminable-at-will doctrine in a narrow class of cases. Id. at 28. Where the law does not provide a remedy for discharge which violates public policy, the court in Burk recognized a remedy and framed it as a cause of action for tortious discharge. Where the law provides a

remedy, there is no need for an implied-in-law parallel remedy. As this Court stated in Carlis v. Sears Roebuck, 89-C-184-C (July 7, 1989) to hold otherwise would result in the public policy exception being asserted in an expansive class of cases. Such a result is directly contrary to the Oklahoma Supreme Court's language in Burk.

In the case sub judice plaintiff has an adequate remedy under the Age Discrimination in Employment Act. Burk applies when a plaintiff has an inadequate remedy although the alleged harm is in clear violation of public policy as articulated by constitutional, statutory or decisional law.

Accordingly, the Court hereby Orders sua sponte that plaintiff's second claim for relief is dismissed for failure to state a cognizable cause of action under Oklahoma law.

IT IS SO ORDERED this 28th day of January, 1992.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BANKERS TRUST COMPANY,
Plaintiff,

v.

LEE KEELING & ASSOCIATES, INC.,
and LEE A. KEELING,

Defendants.

No. 87-C-20-B

O R D E R

Before the Court is the Objection to Report and Recommendation of United States Magistrate filed by the defendant Lee A. Keeling ("Keeling"). The Magistrate Judge's Report and Recommendation ("R&R") in effect recommended sustaining Keeling's motion for summary judgment on the contract claims brought by the plaintiff, Bankers Trust Company ("BTC"), and overruling the motion as to BTC's tort claims. While the Court concurs with the Magistrate Judge's recommended disposition of the claims against Keeling, the Court's order is a *de novo* review of the summary judgment issues, and the Magistrate Judge's R&R should be disregarded in any way inconsistent with this order.

The following facts are undisputed:

1. BTC is a banking corporation organized under the laws of the State of New York and has its principal place of business in New York, New York.

2. LKA is a firm of consulting petroleum engineers incorporated in the State of Oklahoma, and has its principal place

of business in Tulsa, Oklahoma.

3. Keeling is a petroleum consultant and engineer, a president, director and shareholder of LKA, and a resident of the State of Oklahoma.

4. Scandrill, Inc. ("Scandrill") is a New York corporation organized to acquire, develop and operate oil and gas properties located in Texas and Oklahoma. Scandrill's principal place of business is in Graham and San Antonio, Texas.

5. LKA prepared "reserve valuation reports" including a report dated June 30, 1982 (the "June 30, 1982 LKA report") for Scandrill and in September 1982, Scandrill furnished to BTC the June 30, 1982 report prepared by LKA which valued Scandrill's oil and gas reserves.

6. On November 5, 1982 Keeling in his capacity as president of LKA wrote BTC a letter stating that "we hereby authorize Bankers Trust Company to rely on said appraisal [the June 30, 1982 LKA report] as if it were addressed directly to your company, subject to the terms, conditions and limitations set forth therein. . . ." The letter was sent from LKA's Tulsa office to BTC in New York, New York.

7. On November 9, 1982 BTC executed a Revolving Credit and Term Loan Agreement (the "Loan Agreement") pursuant to which BTC loaned Scandrill \$105,000,000 secured by Scandrill's oil and gas reserves. The Loan Agreement was executed and the loan effected in New York, New York.

8. Under the Loan Agreement LKA was to provide semi-annual

valuations of Scandrill's oil and gas reserves to BTC and accordingly LKA provided BTC with reports dated December 31, 1982, June 30, 1983 and December 31, 1983. The reports were prepared in Tulsa, Oklahoma and sent to BTC in New York, New York.

9. In the first quarter of 1984 Scandrill defaulted on its loan obligations to BTC and in May 1984, BTC, acting through a wholly owned subsidiary, acquired all of Scandrill's stock as a result of the default. Scandrill was renamed Pyramid Energy, Inc..

10. BTC brings the following claims against Keeling individually: negligence and gross negligence in the preparation and communication of the LKA reports (negligent misrepresentation), breach of a contract rendering professional engineering services effected through the letter of November 5, 1982 from LKA to BTC, and breach of the third party beneficiary contract arising from LKA's contractual obligation to prepare reports for Scandrill.¹

Keeling moves for summary judgment contending that BTC has failed to state a claim in contract or tort against Keeling individually because 1) there is no contract between Keeling and BTC or Keeling and Scandrill which Keeling could have breached; and 2) any alleged negligent misrepresentation was the product of valuation reports issued by LKA, not Keeling, because a) Keeling did not personally prepare the June 30, 1982 LKA report or the alleged negligent portions of LKA's subsequent reports dated

¹Pursuant to Judge H. Dale Cook's Order of April 11, 1989, the alter ego claim has been bifurcated from the remaining contract and tort claims. The Court therefore will not rule on Keeling's motion for summary judgment on the alter ego claim at this time.

December 31, 1982, June 30, 1983, and December 31, 1983,² and b) due to his lack of privity with BTC, Keeling is not liable for any communication of the alleged negligent misrepresentation.

Summary judgment pursuant to Fed.R.Civ.P. 56 is appropriate where "there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Celotex Corp. v. Catrett, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265, 274 (1986); Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 106 S.Ct. 2505, 91 L.Ed.2d 202 (1986); Widon Third Oil and Gas v. Federal Deposit Insurance Corporation, 805 F.2d 342 (10th Cir. 1986). In Celotex, 477 U.S. at 317 (1986), it is stated:

"The plain language of Rule 56 (c) mandates the entry of summary judgment, after adequate time for discovery and upon motion, against a party who fails to make a showing sufficient to establish the existence of an element essential to that party's case, and on which that party will bear the burden of proof at trial."

To survive a motion for summary judgment, nonmovant "must establish that there is a genuine issue of material facts..." Nonmovant "must do more than simply show that there is some metaphysical doubt as to the material facts." Matsushita v. Zenith, 475 U.S. 574, 585 (1986).

The Court concludes as a matter of law that BTC has failed to state a claim in contract against Keeling individually. BTC argues

² Keeling states that since "BTC never 'accepted' the 12/31/83 LKA report, obviously any participation by Keeling in that report is without legal consequence." (Keeling's Reply Brief, p. 2)

that "[b]y letter of November 5, 1982 Lee Keeling created a relationship of client and professional between LKA/Keeling and BTC." (BTC's Answer Brief, p.32). BTC also contends that the letter "conferred an express third-party beneficiary status upon BTC by LKA/Keeling," (BTC's Answer Brief, p. 35) In so arguing, however, BTC offers no evidence of a contract between Keeling individually and BTC, or Keeling individually and Scandrill. The contract allegedly effected through the November 5, 1982 letter was expressly signed by Keeling in his corporate capacity:

Respectfully submitted,

LEE KEELING AND ASSOCIATES, INC.

[s/ Lee A. Keeling]

Lee A. Keeling
President

(Appendix to BTC's Answer Brief, Document B). Such does not evidence Keeling's intention to bind himself personally. Brignoli v. Balch, Hardy & Scheinman, Inc., 645 F.Supp. 1201 (S.D.N.Y. 1986)³ (under New York law "officers or agents of a corporation are not personally liable on its contracts if they do not purport to bind themselves individually." Id. at 1209). BTC also fails to cite any authority which imposes personal liability on officers of a professional corporation for the corporation's breach of contract. Under N.Y. Bus. Corp. Law §1505(a), an officer of a professional service corporation "shall be personally and fully liable and accountable for any negligent or wrongful act or misconduct

³ The Court has previously concluded that New York law governs the issues presented in this case. See Order dated January 23, 1992.

committed by him or by any person under his direct supervision and control" However, "[a]n alleged breach of contract does not lie within the ambit of a 'shareholder's' personal liability" under N.Y.Bus.Corp. Law §1505(a). Schnapp, Hochberg & Sommer v. Nislow, 106 Misc.2d 194, 197, 431 N.Y.S.2d 324, 326 (N.Y. Sup. Ct. 1980). The Court, therefore, grants summary judgment in favor of Keeling on BTC's contract and third-party beneficiary claims.

On the other hand, BTC's claims of negligent misrepresentation, negligence and gross negligence against Keeling are within the "ambit of a 'shareholder's personal liability'" under N. Y. Bus. Corp. Law §1505(a) when the allegations include negligent acts "committed by [Keeling] or by any person under his direct supervision and control" See also Paciello v. Patel, 83 A.D.2d 73, 443 N.Y.S.2d 403, 406 (App. Div. 1981) (" . . .neither the common law nor section 1505 of the Business Corporation Law imposes vicarious liability upon a shareholder, officer or employee of a professional service corporation for the tortious acts of his coshareholders, officers or employees.")

BTC claims that Keeling was personally involved in the negligent preparation and communication of all the reports to BTC. Keeling contends that he had no personal involvement in the preparation of the June 30, 1982 LKA report or its supervision, and the engineering evaluations of the "Palmco Properties" in the December 31, 1982, June 30, 1983 and December 31, 1983 reports that he did prepare are not alleged misrepresentations. Keeling also argues that even if he communicated the alleged misrepresentations

as the president of LKA, he cannot be held personally liable because he was not in privity with BTC.

The question of the privity requirement in a negligent misrepresentation case was addressed in Ossining Union Free School Dist. v. Anderson et al., 73 N.Y.2d 417, 541 N.Y.S.2d 335 (1989). In Ossining the plaintiff entered into an agreement with an architectural firm to provide an evaluation of plaintiff's building. Pursuant to the agreement, the architectural firm hired two engineering consulting firms to assist in the evaluation and report their findings. Neither engineering consulting firm had a contract with the plaintiff. When the plaintiff brought suit against the architectural firm and the engineering firms, the engineering firms denied liability for any negligent misrepresentation in their reports due to their lack of privity with the plaintiff. The New York Court of Appeals held that formal privity is not required to state a claim for negligent misrepresentation. The court stated that the privity requirement is met in a negligent misrepresentation case when "the underlying relationship between the parties [is] one of contract or bond between them so close as to be the functional equivalent of contractual privity." Id. at 419. In so holding, the court set forth the following criteria for liability when formal privity is absent:

- (1) awareness that the reports were to be used for a particular purpose or purposes; (2) reliance by a known party or parties in furtherance of that purpose; and (3) some conduct by the defendants linking them to the party or parties and evincing defendant's

understanding of their reliance.

Id. at 424 (citing Credit Alliance Corp. v. Arthur Anderson & Co., 65 N.Y.2d 536, 551, 493 N.Y.S. 2d 435, 443 (1985)).

Keeling mistakes the necessary privity to be established in this case. As BTC has not alleged that Keeling acted *ultra vires* in preparing, supervising or communicating the oil and gas valuations, any personal liability of Keeling derives from his conduct as an officer, shareholder and employee of LKA. Consequently, BTC must establish privity or its functional equivalent between BTC and LKA, not BTC and Keeling, to state a negligent misrepresentation claim. Once BTC proves privity or its functional equivalent between BTC and LKA, and its claim(s) of negligent misrepresentation, then BTC must show that Keeling was personally involved in the negligent misrepresentation in order to establish Keeling's personal liability under §1505(a).

Unlike the facts of Ossining, BTC alleges that it had a contractual agreement with LKA effected by the November 5, 1982 letter. If the trier of fact determines that a contract exists, privity between LKA and BTC is established; if not, then the functional equivalent of privity under the Ossining test must be proved for BTC to state a claim of negligent misrepresentation against LKA. In either case, if Keeling individually were found to be involved in the preparation, direct supervision of the preparation, or communication of any negligent misrepresentation, then he could be held personally liable under N.Y. Bus. Corp. Law §1505(a). These, however, involve genuine issues of material fact

preclude summary judgment on BTC's negligent misrepresentation claims against Keeling individually.

The Court, therefore, sustains Keeling's motion for summary judgment in part and overrules it in part. Consistent with the above analysis, the Court grants summary judgment on the alleged contract and third party beneficiary claims, and denies it as to the alleged negligent/gross negligent misrepresentation claims.

IT IS SO ORDERED, this 28th day of January, 1992.

A handwritten signature in black ink, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

VP

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

TANYA M. BESHEAR,

Plaintiff,

vs.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF MAYES COUNTY,
OKLAHOMA and KARIN GARLAND,
COURT CLERK OF MAYES COUNTY
OKLAHOMA, individually and
in her official capacity,

Defendants.

Case No. 90 C 429 C ✓

F I L E D

JAN 28 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JUDGMENT

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This action came on for trial before the Court and a jury, Honorable H. Dale Cook, United States District Judge, presiding, and the issues having been duly tried and the jury having duly rendered its verdict March 20, 1991 and the parties having agreed to an amount for costs and attorney fees, it is therefore ordered adjudged and decreed that the Plaintiff Tanya M. Beshear is granted a judgment against the Defendants in an amount of Thirty Eight Thousand Seven Hundred Ninety Six Dollars and Thirty Seven Cents (\$38,796.37) with interest from February 15, 1992 at the rate of 7.8% per annum. This amount is agreed by the parties to cover all of the verdict, all pre-judgment interest and post-judgment interest, costs and attorney fees and Plaintiff understands that she is giving up any claim to reinstatement to her previous employment at the Mayes County Court Clerk's Office. This judgment supersedes the judgment filed April 8, 1991 which is released by agreement of the parties to be reflected by a filed satisfaction

and release of judgment contemporaneous with the filing of this judgment.

This Judgment is to be paid as follows:

1. First payment to be made on February 15, 1993 in the amount of Fifteen Thousand Dollars (\$15,000.00).

2. Second payment to be made in the amount of Fifteen Thousand Dollars (\$15,000.00) on February 15, 1994.

3. Third and final payment to be made in the amount of Fifteen Thousand Dollars (\$15,000.00) on February 15, 1995.

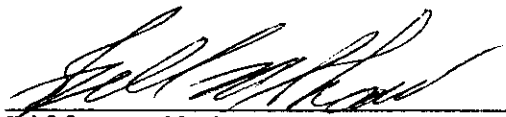
Dated this 28th day of January, 1992.


JUDGE OF THE UNITED STATES DISTRICT COURT

APPROVED AS TO FORM AND CONTENT:



John B. Nicks,
Attorney for Plaintiff



Bill M. Shaw,
Attorney for Defendants

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

TANYA M. BESHEAR,

Plaintiff,

vs.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF MAYES COUNTY,
OKLAHOMA and KARIN GARLAND,
COURT CLERK OF MAYES COUNTY
OKLAHOMA, individually and
in her official capacity,

Defendants.

Case No. 90 C 429 C

FILED

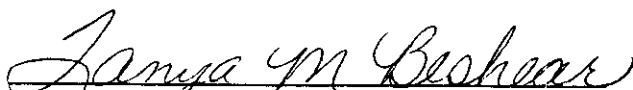
JAN 28 1992


Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RELEASE AND SATISFACTION OF JUDGMENT OF APRIL 8, 1991

The parties have agreed to an amount of final judgment to cover the verdict, costs and attorney fees herein, all pre-judgment interest and post-judgment interest and Plaintiff understands that she is giving up any claim to reinstatement to her previous employment at the Mayes County Court Clerk's Office, it has been agreed by the parties to release the judgment filed April 8, 1991 and to enter a final judgment in the amount of Thirty Eight Thousand Seven Hundred Ninety Six Dollars and Thirty Seven Cents (\$38,796.37) at 7.8% interest per annum.

Plaintiff hereby acknowledges satisfaction of the judgment of April 8, 1991 and releases said judgment of April 8, 1991; and the parties will file a final judgment contemporaneously with this release.


Tanya M. Beshear, Plaintiff


John B. Nicks,
Attorney for Plaintiff
1448 S. Carson
Tulsa, OK 74119
(918) 584-2047

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

F I L E D

MCCORMICK & COMPANY

Plaintiff(s)

vs.

KENNETH COOPER, ET AL

Defendant(s)

JAN 28 1992 *mw*

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

No. 88-C-1632-C

ADMINISTRATIVE CLOSING ORDER

The **Defendant, Kenneth Todd**, having filed it's petition in bankruptcy and these proceedings being stayed thereby, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

IF, within 45 days of final adjudication of the bankruptcy proceedings, the parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 28 day of January,
1992.

Richard M. Lawrence
UNITED STATES DISTRICT JUDGE

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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ATLANTIC RICHFIELD COMPANY,)	
)	
Plaintiff,)	
)	
v.)	89-C-868-C b ✓
)	89-C-869-C b
AMERICAN AIRLINES, INC., et al,)	90-C-859-C b
)	
Defendants.)	Consolidated

ORDER CLARIFYING AND CONFIRMING
REPORT AND RECOMMENDATION OF U.S. MAGISTRATE JUDGE

This Order pertains to Group III's Objections to the Report and Recommendation of the U.S. Magistrate Judge (Docket #149)¹, Defendants' Objections To, Or, In the Alternative, Motion to Clarify, the Report and Recommendation of U.S. Magistrate Judge (Docket #150), and Atlantic Richfield Company's Response to Defendants' Objections to U.S. Magistrate Judge Wagner's Report and Recommendation (Docket #162). The Report and Recommendation of the U.S. Magistrate Judge was filed on September 20, 1991.

Plaintiff Atlantic Richfield Company (ARCO) filed this cost recovery and contribution action pursuant to the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), codified at 42 U.S.C. §§ 9601 et seq., relying particularly on 42 U.S.C. §§ 9607(a)(4)(B), 42 U.S.C. § 9613(f), and Oklahoma's contribution provision, 12 O.S. § 832, to recover expenses incurred to date and in the future in connection with removal of pollutants from the Sand Springs Petro-Chemical Complex Site. The defendants allegedly generated or transported hazardous substances to the Site, owned or operated a portion

¹ "Docket numbers" refer to numerical designations assigned sequentially to each pleading, motion, order, or other filing and are included for purposes of record keeping only. "Docket numbers" have no independent legal significance and are to be used in conjunction with the docket sheet prepared and maintained by the United States Court Clerk, Northern District of Oklahoma.

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of the Site at the time of contamination, or presently own or operate a portion of the Site. ARCO asked the court for partial summary judgment, declaring that each defendant found liable for response costs at the Site would be jointly and severally liable for direct costs incurred to remediate contamination at the Site under § 9607(a)(4)(B) and judgments which ARCO has or will pay the federal government for cleaning up the Site under § 9613(f) and under the contribution provisions of Oklahoma law. Defendants sought summary judgment arguing that the standard of liability under §§ 9607 and 9613 was several only.

The U.S. Magistrate Judge has recommended that the court grant plaintiff's motion for summary judgment and deny defendants' motion. He concluded that plaintiff was entitled to a joint and several judgment under § 9607 against defendants for response costs directly incurred in clean-up efforts and contribution from defendants under § 9613(f) for the portion of any judgment which exceeds plaintiff's equitable share which plaintiff has paid or will pay the federal government for cleaning up the Site. The defendants do not challenge the Magistrate's findings as to their scope of liability, but ask that this court clarify that plaintiff must bear an equitable portion of the uncollectible "orphan shares" of absent or insolvent parties under § 9607 and grant both plaintiff's and defendants' motions in part and deny them in part.

The court finds that the Magistrate's recommendation concerning uncollectible "orphan shares" under § 9613(f), based on the Restatement of Torts Second, § 886A, Comment (i), is inconsistent with defendants' claims in their motion for summary judgment that they should pay no portion of the orphan shares. The Magistrate followed plaintiff's

argument that defendants should be subject to joint and several liability under § 9607 for response costs plaintiff directly incurred and liable in contribution under § 9613(f) for their own share and an equitable portion of the orphan shares which plaintiff paid to the government. The Magistrate's finding that plaintiff's motion for summary judgment should be granted and defendants' motion for summary judgment denied is affirmed.

Plaintiff and each defendant have agreed that they must bear an equitable portion of the orphan shares under § 9607 and this court concludes likewise. Defendant Wynn, however, asserts that, after an equitable apportionment, he is entitled to a several judgment. There is no merit to this contention. A second judgment would defeat the purpose of a joint and several one. Wynn's argument is convoluted and contains mischaracterizations of the parties' positions in this matter. Defendants will not need to bring an action subsequent to this to offset plaintiff's share of the expenses incurred in clean-up of the Site. The most sensible way to incorporate plaintiff's share into the apportionment of liability is to deduct it from the overall clean-up costs incurred and proven at trial in arriving at defendants' liability to plaintiff.

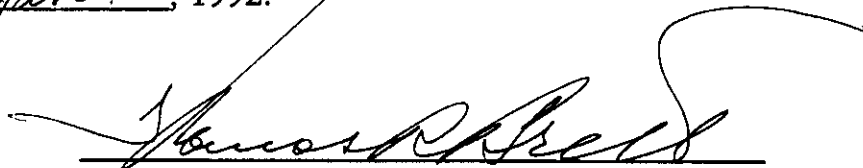
Defendant Wynn also asserts that the Magistrate incorrectly followed the "divisibility" standard set out in United States v. Chem-Dyne Corp., 572 F.Supp. 802 (S.D. Ohio 1983), in allocating liability under § 107. There is no merit to this claim. The Chem-Dyne analysis has been approved by the Tenth Circuit Court of Appeals in County Line Inv. Co. v. Tinney, 933 F.2d 1508 (10th Cir. 1991), and Colorado v. Idarado Mining Co., 916 F.2d 1486 (10th Cir. 1990), cert. denied, 111 S.Ct. 1584 (1991).

Finally, Defendant Wynn argues that plaintiff is entitled to a several and not a joint

and several judgment against defendants because plaintiff is a potential responsible party whose only recourse is in contribution. There is no merit to this contention. The cases cited by Wynn are inapplicable or unpersuasive.

The Report and Recommendation of the U.S. Magistrate Judge, as clarified by this order, is affirmed.

Dated this 28 day of Jan., 1992.

A handwritten signature in black ink, appearing to read "Thomas R. Brett", is written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,
Plaintiff,

vs.

VIRGIL RAY BAXTER a/k/a VIRGIL R.)
BAXTER; DONITA C. BAXTER a/k/a)
DONITA CAROLYN BAXTER;)
COUNTY TREASURER, Washington)
County, Oklahoma; and BOARD OF)
COUNTY COMMISSIONERS, Washington)
County, Oklahoma,)

Defendants.)

CIVIL ACTION NO. 91-C-417-C

FILED

JAN 28 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

AMENDED JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 28 day
of Jan, 1991. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Peter Bernhardt, Assistant United States
Attorney; and the Defendants, Virgil R. Baxter a/k/a Virgil Ray
Baxter, Donita C. Baxter a/k/a Donita Carolyn Baxter, and County
Treasurer and Board of County Commissioners, Washington County,
Oklahoma, appear not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, Virgil R. Baxter a/k/a
Virgil Ray Baxter, acknowledged receipt of Summons and Complaint
on June 25, 1991; that the Defendant, Donita C. Baxter a/k/a
Donita Carolyn Baxter, acknowledged receipt of Summons and
Complaint on June 25, 1991; that Defendant, County Treasurer,
Washington County, Oklahoma, acknowledged receipt of Summons and
Complaint on June 20, 1991; and that Defendant, Board of County

NOTE: THIS ORDER IS TO BE MAILED
BY MOVANT TO ALL COUNSEL AND
PRO SE LITIGANTS IMMEDIATELY
UPON RECEIPT.

Commissioners, Washington County, Oklahoma, acknowledged receipt of Summons and Complaint on June 19, 1991.

It appears that the Defendants, Virgil R. Baxter a/k/a Virgil Ray Baxter, Donita C. Baxter a/k/a Donita Carolyn Baxter, and County Treasurer and Board of County Commissioners, Washington County, Oklahoma, have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on June 15, 1987, Virgil Ray Baxter and Donita Carolyn Baxter, filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 87-01594, were discharged on September 30, 1987, and the case was closed on August 25, 1988.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Washington County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Fifteen (15) of Eastman Second Addition
to Ochelata, Washington County, Oklahoma.

The Court further finds that on November 30, 1983, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, their mortgage note in the amount of \$37,600.00, payable in monthly installments, with interest thereon at the rate of 10.75 percent (10.75%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, a mortgage dated November 30, 1983, covering the above-described property. Said mortgage was recorded on November 30, 1983, in Book 808, Page 739, in the records of Washington County, Oklahoma.

The Court further finds that on November 30, 1983, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on August 15, 1984, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on September 11, 1985, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on September 25, 1986, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that on March 17, 1987, the Defendants, Virgil R. Baxter and Donita C. Baxter, executed and delivered to the United States of America, acting through the Farmers Home Administration, an Interest Credit Agreement to which the interest rate on the above-described note and mortgage was reduced.

The Court further finds that the Defendants, Virgil R. Baxter a/k/a Virgil Ray Baxter and Donita C. Baxter a/k/a Donita Carolyn Baxter, made default under the terms of the aforesaid note, mortgage, and interest credit agreements, by reason of their failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendants, Virgil R. Baxter a/k/a Virgil Ray Baxter and Donita C. Baxter a/k/a Donita Carolyn Baxter, are indebted to the Plaintiff in the principal sum of \$38,770.48, plus accrued interest in the amount of \$12,785.54 as of October 26, 1990, plus interest accruing thereafter at the rate of 10.75 percent per annum or \$11.4187 per day until judgment, plus interest thereafter at the legal rate until fully paid, and the further sum due and owing under the interest credit agreements of \$7,873.64, plus interest on that sum at the legal rate from judgment until paid, and the costs of

this action in the amount of \$28.00 (\$20.00 docket fees, \$8.00 fee for recording Notice of Lis Pendens).

The Court further finds that the Defendants, Virgil R. Baxter a/k/a Virgil Ray Baxter, Donita C. Baxter a/k/a Donita Carolyn Baxter, and County Treasurer and Board of County Commissioners, Washington County, Oklahoma, are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendants, Virgil R. Baxter a/k/a Virgil Ray Baxter and Donita C. Baxter a/k/a Donita Carolyn Baxter, in the principal sum of \$38,770.48, plus accrued interest in the amount of \$12,785.54 as of October 26, 1990, plus interest accruing thereafter at the rate of 10.75 percent per annum or \$11.4187 per day until judgment, plus interest thereafter at the current legal rate of 4.02 percent per annum until paid, and the further sum due and owing under the interest credit agreements of \$7,873.64, plus interest on that sum at the legal rate from judgment until paid, plus the costs of this action in the amount of \$28.00 (\$20.00 docket fees, \$8.00 fee for recording Notice of Lis Pendens), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Virgil R. Baxter a/k/a Virgil Ray Baxter, Donita C. Baxter a/k/a Donita Carolyn Baxter, County Treasurer and Board of

County Commissioners, Washington County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without appraisement, the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

(Signed) H. Dale Cook

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney



PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 91-C-417-C

PB/esr

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 28 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JOSEPH MACASTLE JACKSON,
Plaintiff,

v.

RON CHAMPION, et al.,
Defendants.

No. 90-C-1012-B

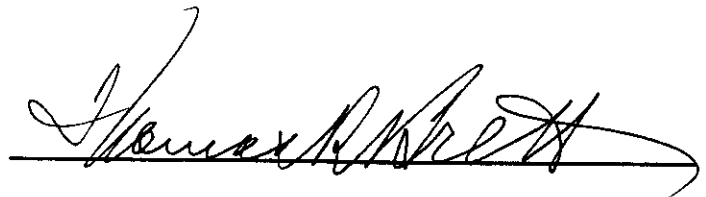
O R D E R

Before the Court is the defendants' motion to administratively close this action for a period of ninety (90) days. Defendants make this request due to the institution of a new Department of Corrections ("DOC") grooming policy which provides new criteria for the granting of a religious exemption. The new policy was implemented on January 14, 1991 in response to the decision rendered in LeFors v. Maynard, No. CIV-91-1521-R (W.D.Okla., Jan. 7, 1992) in which the court ruled that the no-exemption policy adopted by the DOC was an unconstitutional infringement of religious freedom. Defendants request a stay of ninety (90) days to allow the plaintiff the opportunity to apply for a religious exemption under the new grooming policy.

The Court grants the defendants' motion to administratively close this case for a period of ninety (90) days. As soon as a decision is made on plaintiff's new exemption request, and in no event later than ninety (90) days from the date of this Order, the plaintiff is directed to inform the Court whether he chooses to

dismiss or prosecute his claim.

IT IS SO ORDERED, this 28th day of January, 1992.

A handwritten signature in cursive script, appearing to read "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
EDWARD OLIN MARTIN,)	88-C-954-E
ROBERT RAY BRADLEY,)	88-C-967-E
JOSEPH F. YINGER,)	88-C-977-E
DONALD WAYNE TARTER,)	88-C-1044-E
MARION LOPP EVANS,)	88-C-1062-E
MELVIN L. TREASE,)	88-C-1104-E
EDWARD L. MCKEE,)	88-C-820-B
ROBERT EUGENE PETERNELL,)	88-C-823-B
HAROLD MAHAN,)	88-C-826-B
EARL HAROLD FOSS,)	88-C-834-B
ROY LEE LANKFORD,)	88-C-874-B
CHARLES RAY JONES,)	88-C-976-B
JACKY DOUGLAS MYERS,)	88-C-985-B
BILLY JOE GOLD,)	88-C-1019-B
BOBBY WAYNE BROWN,)	88-C-1036-B
PAUL O. COMPTON,)	88-C-1058-B
ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B ✓
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

1-27-92

ORDER OF DISMISSAL

WILLIAM HARVEY JONES,)	88-C-1267-B
HUBERT EUGENE WALKER,)	88-C-1409-B
Plaintiffs,)	
v.)	
ANCHOR PACKING COMPANY, et al.,)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.

Judge

Judge

Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417

) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
TOMMY JOE AYRES,)	88-C-894-C
WILLIAM JACKSON WYNN,)	88-C-951-C
WILLIAM ERNEST BROWN,)	88-C-1020-C
DANIEL A. INMAN,)	88-C-1049-C
JOSEPH JONATHAN PENNOCK,)	88-C-1163-C
HARSE EDWARD WATERS, JR.,)	88-C-1180-C
RICHARD DONALD MARTIN,)	88-C-1270-C
JAMES ALVIN VINCENT,)	88-C-1311-C
KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
CHARLES RAMON SMITH,)	88-C-725-E
LEROY HUDSON,)	88-C-753-E
CHARLES FRANKLIN TUSINGER,)	88-C-783-E
ROBERT L. WAGNER,)	88-C-788-E
LAWRENCE E. RIDINGS,)	88-C-802-E
STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawless, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417
)
)

ASB(TW) No. 60024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
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JAMES ALVIN VINCENT,)	88-C-1311-C
KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
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ROBERT L. WAGNER,)	88-C-788-E
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STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
)	
WORTH EDWARD CLAYTON,)	88-C-887-E
)	
JAMES ALBERT JARMIN,)	88-C-949-E
)	
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ROBERT RAY BRADLEY,)	88-C-967-E
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EDWARD L. MCKEE,)	88-C-820-B
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ROBERT EUGENE PETERNELL,)	88-C-823-B
)	
HAROLD MAHAN,)	88-C-826-B
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EARL HAROLD FOSS,)	88-C-834-B
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ROY LEE LANKFORD,)	88-C-874-B
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CHARLES RAY JONES,)	88-C-976-B
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BOBBY WAYNE BROWN,)	88-C-1036-B
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)	
ROBERT BRUCE ASH,)	88-C-1156-B
)	
HENRY DALE FOSTER,)	88-C-1182-B
)	
THOMAS E. GRANT,)	88-C-1258-B
)	

ORDER OF DISMISSAL

WILLIAM HARVEY JONES,)	88-C-1267-B
)	
HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
)
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
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RICHARD DONALD MARTIN,)	88-C-1270-C
JAMES ALVIN VINCENT,)	88-C-1311-C
KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
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ROBERT L. WAGNER,)	88-C-788-E
LAWRENCE E. RIDINGS,)	88-C-802-E
STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. LAWRENCE, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
EDWARD OLIN MARTIN,)	88-C-954-E
ROBERT RAY BRADLEY,)	88-C-967-E
JOSEPH F. YINGER,)	88-C-977-E
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ROY LEE LANKFORD,)	88-C-874-B
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BOBBY WAYNE BROWN,)	88-C-1036-B
PAUL O. COMPTON,)	88-C-1058-B
ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

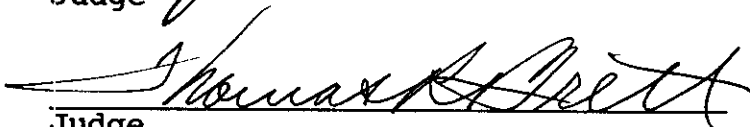
ORDER OF DISMISSAL

WILLIAM HARVEY JONES,)	88-C-1267-B
HUBERT EUGENE WALKER,)	
)	88-C-1409-B
Plaintiffs,)	
v.)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417
)
)

) ASB(TW) No. 60024
)
)

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
TOMMY JOE AYRES,)	88-C-894-C
WILLIAM JACKSON WYNN,)	88-C-951-C
WILLIAM ERNEST BROWN,)	88-C-1020-C
DANIEL A. INMAN,)	88-C-1049-C
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HARSE EDWARD WATERS, JR.,)	88-C-1180-C
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KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
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LAWRENCE E. RIDINGS,)	88-C-802-E
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

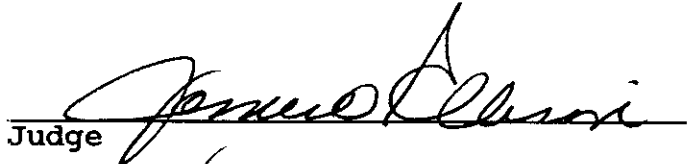
THOMAS RAY CHAMPLIN,)	88-C-878-E
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EDWARD OLIN MARTIN,)	88-C-954-E
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JOSEPH F. YINGER,)	88-C-977-E
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MARION LOPP EVANS,)	88-C-1062-E
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ROBERT EUGENE PETERNELL,)	88-C-823-B
HAROLD MAHAN,)	88-C-826-B
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ROY LEE LANKFORD,)	88-C-874-B
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JACKY DOUGLAS MYERS,)	88-C-985-B
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ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

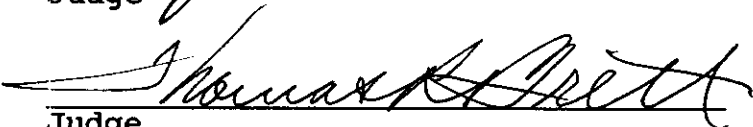
ORDER OF DISMISSAL

WILLIAM HARVEY JONES,)	88-C-1267-B
HUBERT EUGENE WALKER,)	
)	88-C-1409-B
Plaintiffs,)	
v.)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
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WILLIAM JACKSON WYNN,)	88-C-951-C
WILLIAM ERNEST BROWN,)	88-C-1020-C
DANIEL A. INMAN,)	88-C-1049-C
JOSEPH JONATHAN PENNOCK,)	88-C-1163-C
HARSE EDWARD WATERS, JR.,)	88-C-1180-C
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STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED
JAN 27 1992
Richard M. LAWRENCE, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

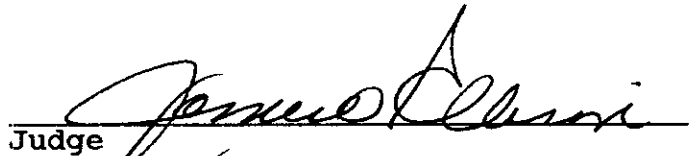
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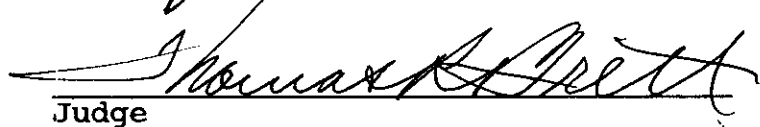
ORDER OF DISMISSAL

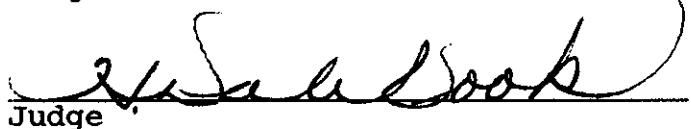
WILLIAM HARVEY JONES,)	88-C-1267-B
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HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
ASBESTOS LITIGATION) ASB(TW) No. 6023

Charles Chaney, et al.,) 88-C-705-E
Earl Oleman, et al.,) 88-C-744-B ✓
Clinton Ditmore, et al.,) 88-C-751-E
Junior Mashburn, et al.,) 88-C-798-B
Marvin East, et al.,) 88-C-824-E
W.D. Hopper, et al.,) 88-C-841-E
Earnest Green, et al.,) 88-C-1113-E
Plaintiffs,)
v.)
ANCHOR PACKING COMPANY, et al.,)
Defendants.)

FILED

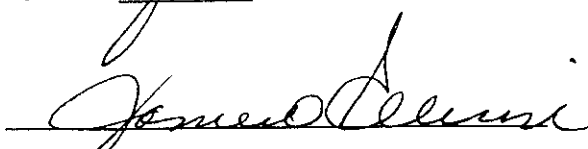
JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

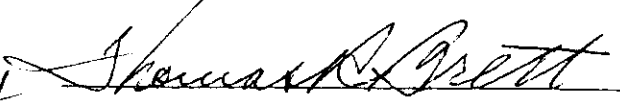
ORDER FOR DISMISSAL WITH PREJUDICE
AS TO DEFENDANT, KEENE CORPORATION

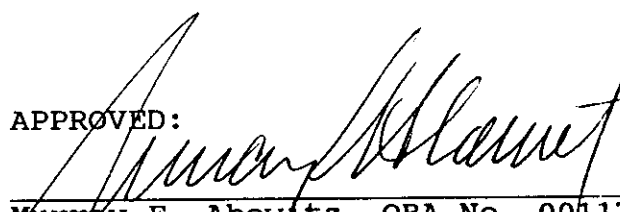
Pursuant to and upon consideration of the Stipulation for Dismissal entered into between the plaintiffs and defendant, Keene Corporation, the Court finds and orders that defendant Keene Corporation should be and is hereby dismissed with prejudice from the captioned litigation, with both parties to bear their own costs of litigation.

IT IS SO ORDERED this 22^d day of Jan, 1991.

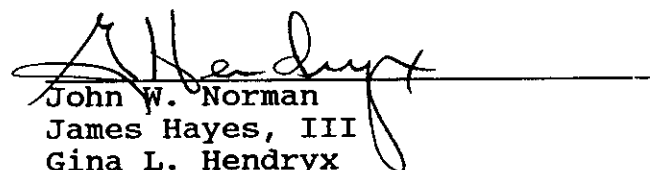

United States District Judge

APPROVED:


UNITED STATES DISTRICT JUDGE


Murray E. Abowitz, OBA No. 00117
Abowitz & Welch
15 N. Robinson, 10th Floor
Post Office Box 1937
Oklahoma City, Oklahoma 73101
Telephone: (405) 236-4645

Attorney for Keene Corporation


John W. Norman
James Hayes, III
Gina L. Hendryx
Norman & Edem
127 Northwest 10th Street
Oklahoma City, OK 73103
Telephone: (405) 272-0200

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

IN RE:)	M-1417
ASBESTOS LITIGATION)	ASB(TW) No. <u>6023</u>
<hr/>		
Charles Chaney, et al.,)	88-C-705-E
Earl Oleman, et al.,)	88-C-744-B
Clinton Ditmore, et al.,)	88-C-751-E
Junior Mashburn, et al.,)	<u>88-C-798-B</u> ✓
Marvin East, et al.,)	88-C-824-E
W.D. Hopper, et al.,)	88-C-841-E
Earnest Green, et al.,)	88-C-1113-E
Plaintiffs,)	
v.)	
ANCHOR PACKING COMPANY, et al.,)	
Defendants.)	

FILED

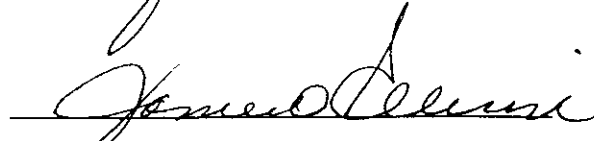
JAN 27 1992

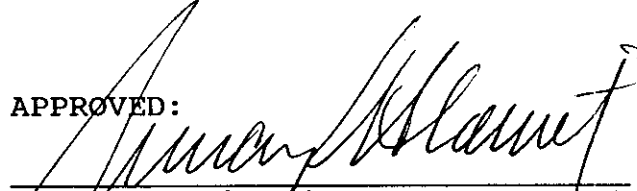
Richard M. LAWRENCE, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA


ORDER FOR DISMISSAL WITH PREJUDICE
AS TO DEFENDANT, KEENE CORPORATION

Pursuant to and upon consideration of the Stipulation for Dismissal entered into between the plaintiffs and defendant, Keene Corporation, the Court finds and orders that defendant Keene Corporation should be and is hereby dismissed with prejudice from the captioned litigation, with both parties to bear their own costs of litigation.

IT IS SO ORDERED this 22^d day of Jan, 1991.

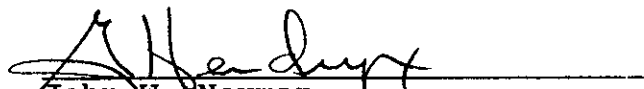

United States District Judge

APPROVED: 


UNITED STATES DISTRICT JUDGE

Murray E. Abowitz, OBA No. 00017
Abowitz & Welch
15 N. Robinson, 10th Floor
Post Office Box 1937
Oklahoma City, Oklahoma 73101
Telephone: (405) 236-4645

Attorney for Keene Corporation


John W. Norman
James Hayes, III
Gina L. Hendryx
Norman & Edem
127 Northwest 10th Street
Oklahoma City, OK 73103
Telephone: (405) 272-0200

Attorneys for Plaintiffs

THOMAS RAY CHAMPLIN,)	88-C-878-E
)	
WORTH EDWARD CLAYTON,)	88-C-887-E
)	
JAMES ALBERT JARMIN,)	88-C-949-E
)	
EDWARD OLIN MARTIN,)	88-C-954-E
)	
ROBERT RAY BRADLEY,)	88-C-967-E
)	
JOSEPH F. YINGER,)	88-C-977-E
)	
DONALD WAYNE TARTER,)	88-C-1044-E
)	
MARION LOPP EVANS,)	88-C-1062-E
)	
MELVIN L. TREASE,)	88-C-1104-E
)	
EDWARD L. MCKEE,)	88-C-820-B
)	
ROBERT EUGENE PETERNELL,)	88-C-823-B
)	
HAROLD MAHAN,)	88-C-826-B
)	
EARL HAROLD FOSS,)	88-C-834-B
)	
ROY LEE LANKFORD,)	88-C-874-B
)	
CHARLES RAY JONES,)	88-C-976-B
)	
JACKY DOUGLAS MYERS,)	88-C-985-B
)	
BILLY JOE GOLD,)	88-C-1019-B ✓
)	
BOBBY WAYNE BROWN,)	88-C-1036-B
)	
PAUL O. COMPTON,)	88-C-1058-B
)	
ALFRED CHARLES HALL,)	88-C-1085-B
)	
ROBERT BRUCE ASH,)	88-C-1156-B
)	
HENRY DALE FOSTER,)	88-C-1182-B
)	
THOMAS E. GRANT,)	88-C-1258-B
)	

1-27-92

ORDER OF DISMISSAL

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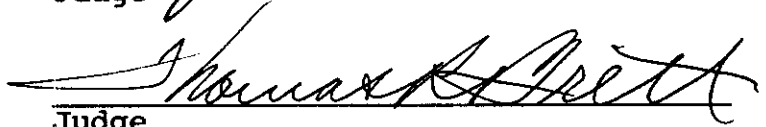
WILLIAM HARVEY JONES,)	88-C-1267-B
)	
HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

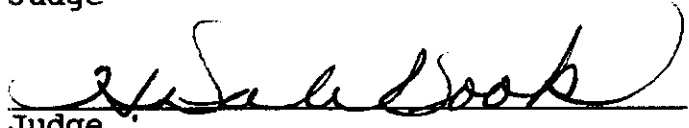
Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.



Judge



Judge



Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
TOMMY JOE AYRES,)	88-C-894-C
WILLIAM JACKSON WYNN,)	88-C-951-C
WILLIAM ERNEST BROWN,)	88-C-1020-C
DANIEL A. INMAN,)	88-C-1049-C
JOSEPH JONATHAN PENNOCK,)	88-C-1163-C
HARSE EDWARD WATERS, JR.,)	88-C-1180-C
RICHARD DONALD MARTIN,)	88-C-1270-C
JAMES ALVIN VINCENT,)	88-C-1311-C
KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
CHARLES RAMON SMITH,)	88-C-725-E
LEROY HUDSON,)	88-C-753-E
CHARLES FRANKLIN TUSINGER,)	88-C-783-E
ROBERT L. WAGNER,)	88-C-788-E
LAWRENCE E. RIDINGS,)	88-C-802-E
STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

ORDER OF DISMISSAL

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. District Court
Northern District of Oklahoma

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
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DONALD ELSTEN,)	88-C-705-E
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

**Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA**

ORDER OF DISMISSAL

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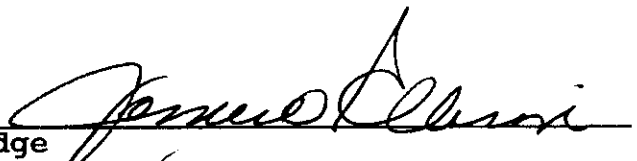
THOMAS RAY CHAMPLIN,)	88-C-878-E
)	
WORTH EDWARD CLAYTON,)	88-C-887-E
)	
JAMES ALBERT JARMIN,)	88-C-949-E
)	
EDWARD OLIN MARTIN,)	88-C-954-E
)	
ROBERT RAY BRADLEY,)	88-C-967-E
)	
JOSEPH F. YINGER,)	88-C-977-E
)	
DONALD WAYNE TARTER,)	88-C-1044-E
)	
MARION LOPP EVANS,)	88-C-1062-E
)	
MELVIN L. TREASE,)	88-C-1104-E
)	
EDWARD L. MCKEE,)	88-C-820-B
)	
ROBERT EUGENE PETERNELL,)	88-C-823-B
)	
HAROLD MAHAN,)	88-C-826-B
)	
EARL HAROLD FOSS,)	88-C-834-B
)	
ROY LEE LANKFORD,)	88-C-874-B ✓
)	
CHARLES RAY JONES,)	88-C-976-B
)	
JACKY DOUGLAS MYERS,)	88-C-985-B
)	
BILLY JOE GOLD,)	88-C-1019-B
)	
BOBBY WAYNE BROWN,)	88-C-1036-B
)	
PAUL O. COMPTON,)	88-C-1058-B
)	
ALFRED CHARLES HALL,)	88-C-1085-B
)	
ROBERT BRUCE ASH,)	88-C-1156-B
)	
HENRY DALE FOSTER,)	88-C-1182-B
)	
THOMAS E. GRANT,)	88-C-1258-B
)	

ORDER OF DISMISSAL

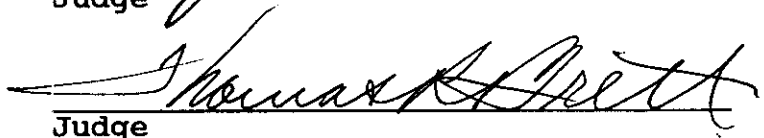
WILLIAM HARVEY JONES,)	88-C-1267-B
)	
HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

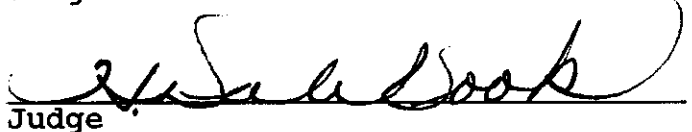
Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.



Judge



Judge



Judge

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
EDWARD OLIN MARTIN,)	88-C-954-E
ROBERT RAY BRADLEY,)	88-C-967-E
JOSEPH F. YINGER,)	88-C-977-E
DONALD WAYNE TARTER,)	88-C-1044-E
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ROBERT EUGENE PETERNELL,)	88-C-823-B
HAROLD MAHAN,)	88-C-826-B
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CHARLES RAY JONES,)	88-C-976-B
JACKY DOUGLAS MYERS,)	88-C-985-B
BILLY JOE GOLD,)	88-C-1019-B
BOBBY WAYNE BROWN,)	88-C-1036-B
PAUL O. COMPTON,)	88-C-1058-B
ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

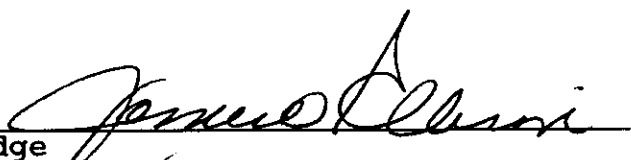
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ORDER OF DISMISSAL

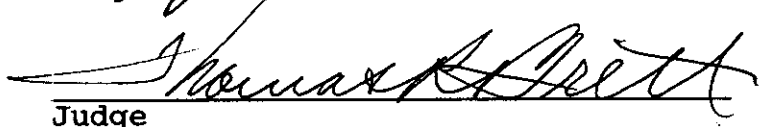
WILLIAM HARVEY JONES,)	88-C-1267-B
)	
HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
)	
Defendants.)	

ORDER OF DISMISSAL

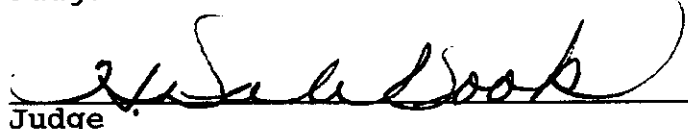
Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.



Judge



Judge



Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417

) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
TOMMY JOE AYRES,)	88-C-894-C
WILLIAM JACKSON WYNN,)	88-C-951-C
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HARSE EDWARD WATERS, JR.,)	88-C-1180-C
RICHARD DONALD MARTIN,)	88-C-1270-C
JAMES ALVIN VINCENT,)	88-C-1311-C
KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
EDWARD OLIN MARTIN,)	88-C-954-E
ROBERT RAY BRADLEY,)	88-C-967-E
JOSEPH F. YINGER,)	88-C-977-E
DONALD WAYNE TARTER,)	88-C-1044-E
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MELVIN L. TREASE,)	88-C-1104-E
EDWARD L. MCKEE,)	88-C-820-B
ROBERT EUGENE PETERNELL,)	88-C-823-B
HAROLD MAHAN,)	88-C-826-B
EARL HAROLD FOSS,)	88-C-834-B
ROY LEE LANKFORD,)	88-C-874-B
CHARLES RAY JONES,)	88-C-976-B
JACKY DOUGLAS MYERS,)	88-C-985-B ✓
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PAUL O. COMPTON,)	88-C-1058-B
ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

1-27-92

ORDER OF DISMISSAL

WILLIAM HARVEY JONES,)	88-C-1267-B
)	
HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417
)
) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
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LAWRENCE E. RIDINGS,)	88-C-802-E
STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
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HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

1-27-92

ORDER OF DISMISSAL

28

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ORDER OF DISMISSAL

Judge

Judge

Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417

) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
EDWARD OLIN MARTIN,)	88-C-954-E
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PAUL O. COMPTON,)	88-C-1058-B ✓
ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

1-27-92

ORDER OF DISMISSAL

28

WILLIAM HARVEY JONES,

HUBERT EUGENE WALKER,

Plaintiffs,

v.

ANCHOR PACKING COMPANY, et al.,

Defendants.

) 88-C-1267-B

) 88-C-1409-B

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
)
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
JACK N. BENBROOK,)	88-C-833-C
TOMMY JOE AYRES,)	88-C-894-C
WILLIAM JACKSON WYNN,)	88-C-951-C
WILLIAM ERNEST BROWN,)	88-C-1020-C
DANIEL A. INMAN,)	88-C-1049-C
JOSEPH JONATHAN PENNOCK,)	88-C-1163-C
HARSE EDWARD WATERS, JR.,)	88-C-1180-C
RICHARD DONALD MARTIN,)	88-C-1270-C
JAMES ALVIN VINCENT,)	88-C-1311-C
KENNETH GLENN,)	88-C-1600-C
DONALD ELSTEN,)	88-C-705-E
CHARLES RAMON SMITH,)	88-C-725-E
LEROY HUDSON,)	88-C-753-E
CHARLES FRANKLIN TUSINGER,)	88-C-783-E
ROBERT L. WAGNER,)	88-C-788-E
LAWRENCE E. RIDINGS,)	88-C-802-E
STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
EDWARD OLIN MARTIN,)	88-C-954-E
ROBERT RAY BRADLEY,)	88-C-967-E
JOSEPH F. YINGER,)	88-C-977-E
DONALD WAYNE TARTER,)	88-C-1044-E
MARION LOPP EVANS,)	88-C-1062-E
MELVIN L. TREASE,)	88-C-1104-E
EDWARD L. MCKEE,)	88-C-820-B
ROBERT EUGENE PETERNELL,)	88-C-823-B
HAROLD MAHAN,)	88-C-826-B
EARL HAROLD FOSS,)	88-C-834-B
ROY LEE LANKFORD,)	88-C-874-B
CHARLES RAY JONES,)	88-C-976-B
JACKY DOUGLAS MYERS,)	88-C-985-B
BILLY JOE GOLD,)	88-C-1019-B
BOBBY WAYNE BROWN,)	88-C-1036-B
PAUL O. COMPTON,)	88-C-1058-B
ALFRED CHARLES HALL,)	88-C-1085-B
ROBERT BRUCE ASH,)	88-C-1156-B
HENRY DALE FOSTER,)	88-C-1182-B
THOMAS E. GRANT,)	88-C-1258-B

1-27-92



ORDER OF DISMISSAL

28

WILLIAM HARVEY JONES,

HUBERT EUGENE WALKER,

Plaintiffs,

v.

ANCHOR PACKING COMPANY, et al.,

Defendants.

) 88-C-1267-B

) 88-C-1409-B

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.

James A. Clavin
Judge

Thomas A. Brett
Judge

W. S. Cook
Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

ASBESTOS LITIGATION

) M-1417
)
)

ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

WILLIAM HARVEY JONES,

HUBERT EUGENE WALKER,

Plaintiffs,

v.

ANCHOR PACKING COMPANY, et al.,

Defendants.

) 88-C-1267-B

) 88-C-1409-B ✓

1-27-92

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.

James A. Alessi
Judge

Thomas A. Britt
Judge

W. S. Sook
Judge

27

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

) M-1417

ASBESTOS LITIGATION

) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
)	
WORTH EDWARD CLAYTON,)	88-C-887-E
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JAMES ALBERT JARMIN,)	88-C-949-E
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ALFRED CHARLES HALL,)	88-C-1085-B
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ROBERT BRUCE ASH,)	88-C-1156-B
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HENRY DALE FOSTER,)	88-C-1182-B
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THOMAS E. GRANT,)	88-C-1258-B
)	

ORDER OF DISMISSAL

WILLIAM HARVEY JONES,

HUBERT EUGENE WALKER,

Plaintiffs,

v.

ANCHOR PACKING COMPANY, et al.,

Defendants.

88-C-1267-B ✓

88-C-1409-B

1-27-92

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.

James A. Darni
Judge

Thomas R. Brett
Judge

W. S. Cook
Judge

28

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
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STANLEY E. ELSTEN,)	88-C-815-E
BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED
JAN 27 1992
Richard M. LAWRENCE, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
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ORDER OF DISMISSAL

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THOMAS E. GRANT,)	88-C-1258-B

1-27-92

ORDER OF DISMISSAL

28

WILLIAM HARVEY JONES,

HUBERT EUGENE WALKER,

Plaintiffs,

v.

ANCHOR PACKING COMPANY, et al.,

Defendants.

) 88-C-1267-B

) 88-C-1409-B

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:

) M-1417

ASBESTOS LITIGATION

) ASB(TW) No. 60024

JOE MONROE BERRY,)	88-C-784-C
LEONARD HARLAN RIGGINS,)	88-C-832-C
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Ronald M. Lawrence, Clerk
U.S. District Court
Northern District of Oklahoma

ORDER OF DISMISSAL

THOMAS RAY CHAMPLIN,)	88-C-878-E
WORTH EDWARD CLAYTON,)	88-C-887-E
JAMES ALBERT JARMIN,)	88-C-949-E
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THOMAS E. GRANT,)	88-C-1258-B

1-27-92



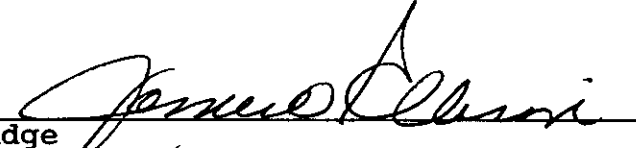
ORDER OF DISMISSAL

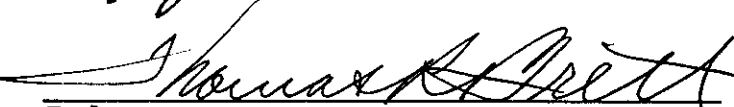
8

WILLIAM HARVEY JONES,)	88-C-1267-B
)	
HUBERT EUGENE WALKER,)	88-C-1409-B
)	
Plaintiffs,)	
v.)	
)	
ANCHOR PACKING COMPANY, et al.,)	
)	
Defendants.)	

ORDER OF DISMISSAL

Now on this 27th day of Jan, 1991, the Court being advised that a compromise settlement having been reached between the Plaintiffs and the Defendant, Keene Corporation, and those parties stipulating to a Dismissal With Prejudice, the Court orders that the above-captioned cases be dismissed with prejudice as to Defendant, Keene Corporation.


Judge


Judge


Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

IN RE:) M-1417
)
ASBESTOS LITIGATION) ASB(TW) No. 6024

JOE MONROE BERRY,)	88-C-784-C
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TOMMY JOE AYRES,)	88-C-894-C
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BILLY JOE DOWNUM,)	88-C-831-E
ROBERT LOUIS PESEK,)	88-C-846-E
JERRY WAYNE MARTIN,)	88-C-868-E

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER OF DISMISSAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

DAVID L. MCCUTCHEN,
d/b/a Christy Mold,

Plaintiff,

v.

Case No. 90-C-888-B

SCIOTO CERAMIC PRODUCTS,
INC., an Ohio Corporation,

and

JAMES POWERS, d/b/a POWERS
CERAMIC SUPPLY,

and

MARTINE BERCHER, d/b/a
BERCHER CERAMICS,

Defendants.

FILED

JAN 27 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

ORDER

This matter having come before the Court this 27 day
of Jan., 1992, upon the parties' Joint Stipulation of
Dismissal With Prejudice and for good cause shown,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that this action
be dismissed with prejudice to the filing of a future action, the
parties to bear their own costs and attorneys' fees.

S/ THOMAS R. BRETT

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

entered

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 27 1992

ALTHA TRIMBLE, personal)
representative of the Estate)
of MILDRED MARSH, deceased,)
Plaintiff,)
v.)
COAST COUNTIES EXPRESS, INC.,)
a foreign corporation; JOSEPH)
MICHAEL CAMPBELL,)
individually; and EARL)
EUGENE WHITLEY, individually,)
Defendants.)

RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

No. 91-C-673-C

**NOTICE OF DISMISSAL WITHOUT PREJUDICE OF
DEFENDANT, EARL EUGENE WHITLEY *only***

The Plaintiff, Altha Trimble, personal representative of the Estate of Mildred Marsh, deceased, pursuant to Rule 41(A)(1)(i) dismisses the Defendant, Earl Eugene Whitley, without prejudice.

The Plaintiff and the Defendants who have appeared in the action stipulate to the dismissal of Earl Eugene Whitley without prejudice.

F. Will DeMier
F. Will DeMier, One of the Attorneys
for Plaintiff

John R. Woodard III #9853
John R. Woodard, III, One of the
Attorneys for Defendants, Coast
Counties Express, Inc., and Joseph
Michael Campbell.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 24 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

THRIFTY RENT-A-CAR SYSTEM, INC.)
an Oklahoma corporation,)
)
Plaintiff,)
)
vs.)
)
ROBERT BETTINGER, and MICHAEL)
ROSENBAUM, individuals, and GFY)
TRANSPORTATION GROUP, INC.,)
a New York corporation,)
)
Defendants.)

Case No. 90-C-469-B

ADMINISTRATIVE CLOSING ORDER

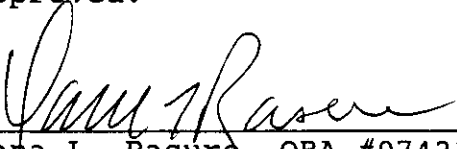
Thrifty Rent-A-Car System, Inc. ("Thrifty") Robert Bettinger, GFY Transportation Group, Inc. and Michael Rosenbaum have settled this action pursuant to the terms of a Settlement Agreement dated as of November 12, 1991 whereby the Defendants paid damages to Thrifty on Thrifty's claims under the terms therein described and the Defendants released all of their respective claims against Thrifty without payment of any consideration by Thrifty (the "Settlement Agreement"). It is hereby ordered that the Clerk administratively terminate this action in his records without prejudice to the rights of Thrifty to proceed as provided in the Settlement Agreement to obtain a final determination of this litigation.

IT IS SO ORDERED this 23rd day of Jan.,
1992.

S/ THOMAS R. BRETT

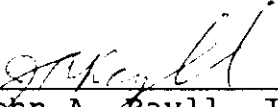
UNITED STATES DISTRICT JUDGE

Approved:



Dana L. Rasure, OBA #07421
BAKER, HOSTER, McSPADDEN, CLARK
& RASURE
800 Kennedy Building
Tulsa, Oklahoma 74103
(918) 592-5555

Attorneys for Plaintiff
Thrifty Rent-A-Car System, Inc.



John A. Rayll, Jr., OBA #7440
1616 South Main Street
Tulsa, Oklahoma 74119
(918) 585-8800

Attorneys for Defendants
Robert Bettinger, Michael
Rosenbaum and GFY Transportation
Group, Inc.

FILED

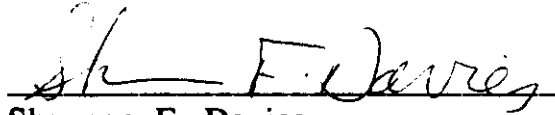
EDWARD M. LAWRENCE
PLANE
U.S. DISTRICT COURT
NEW YORK, N.Y.

Case No. 91-C-385-B

Steven R. Hickman, OBA #4172
1700 Southwest Blvd., Suite 100
P. O. Box 799
Tulsa, OK 74101
918/584-4724
Attorneys for Plaintiff

McKINNEY, STRINGER & WEBSTER, P.C.

BY:



Shannon F. Davies

101 N. Broadway

Oklahoma City, OK 73102

405/239-6444

Attorneys for Defendant

already
closed
1-23-92

FILED

JAN 24 1992

RICHARD M. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

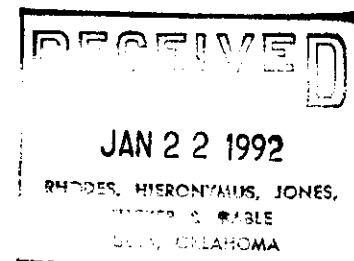
ALVA DALE TILLEY and VIRGINIA L.)
TILLEY,)
)
Plaintiffs,)
)
v.)
)
TIME INSURANCE COMPANY, a)
corporation,)
)
Defendant.)

No. 91 C 117 C

OF
STIPULATION FOR DISMISSAL WITH PREJUDICE

Pursuant to Rule 41, Federal Rules of Civil Procedure, the parties, and each of them, by and through their respective counsel of record, herewith stipulate and agree to the dismissal with prejudice of said cause, including all complaints, counterclaims, cross complaints and causes of action of any type by any party against any or all of the other parties, all issues therein presented having now been compromised, settled, satisfied, and released between the parties. This instrument is intended to and shall constitute a dismissal instant of any and all such actions, counter actions and/or cross actions. Each party shall bear his, its, her or their own costs, expenses, and attorney fees without assessment against any other party.

Executed the respective dates shown adjacent to each signature.



Date:

10/10/91

Patrick E. Carr
CARR & CARR

Attorneys for Plaintiffs

Date:

1-23-92

Jo Anne Deaton
Jo Anne Deaton
RHODES, HIERONYMUS, JONES,
TUCKER & GABLE

Attorneys for Defendant

CERTIFICATE OF MAILING

I hereby certify that on this 22nd day of January, 1992,
I mailed a true and correct copy of the foregoing to Pat Carr, 4520
S. Harvard, Suite 135, Tulsa, OK 74135, with proper postage thereon
fully prepaid.

JAD/bjo
tilley.sti

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 23 1992

RICHARD L. LAWRENCE
CLERK
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OK

ROBERT RANDALL ZIEGLER,
Petitioner,
vs.
RON CHAMPION, WARDEN,
Respondent.

No. 91-C-226-C

ORDER

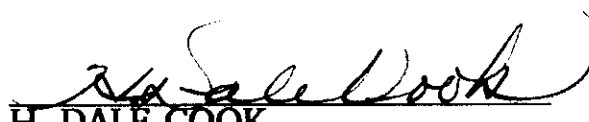
Before the Court is the objection of the petitioner to the Report and Recommendation of the United States Magistrate Judge. The Magistrate Judge recommended dismissal of the petition as an abuse of the writ. Petitioner filed a previous petition in this Court under No. 83-C-248-C. Upon appeal, the Tenth Circuit affirmed by Order and Judgment (No. 90-5024) (September 7, 1990).

In his new petition, petitioner again places great reliance upon Nipps v. State, 626 P.2d 1349 (Okla. Crim. App. 1981). In its Order and Judgment, the Tenth Circuit clearly stated that "the many meanings Mr. Ziegler attributes to Nipps are not correct." Order and Judgment at 4. Thus, the language involving prior adjudication in 28 U.S.C. §2244(b) and 28 U.S.C. §2254, Rule 9(b) bars this claim. As to any claims now raised which were not previously raised, the Magistrate Judge is clearly correct that petitioner has not adequately demonstrated "cause and prejudice" under McCleskey v. Zant, 111 S.Ct. 1454 (1991). Further, the Court is not

persuaded that petitioner has demonstrated the "fundamental miscarriage of justice" or "actual innocence" exception. See Sawyer v. Whitley, 945 F.2d 812 (5th Cir.), cert. granted, 112 S.Ct. 434 (1991).

It is the Order of the Court that the objection of petitioner to the Report and Recommendation of the United States Magistrate Judge is hereby denied. The motion of petitioner for habeas corpus relief is hereby denied.

IT IS SO ORDERED this 23rd day of January, 1992.


H. DALE COOK
United States District Judge

GLH/ta
12/12/91

FILED

JAN 20 1992

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

JIMMY HAYNES,)
)
Plaintiff,)
)
vs.)
)
GEORGIA TALC CORP.,)
)
Defendant.)

No. 88-C-932-~~PE~~

ORDER OF DISMISSAL

Upon Plaintiff's motion, this action is hereby dismissed.

~~by JAMES O. ELSON~~

U.S. DISTRICT JUDGE

GOAL-P6/HAY-MD01

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 23 1992

SAM WILLIAMS,

Plaintiff,

vs.

CONDRIN OIL COMPANY, 1983-B,
et al.,

Defendants.

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

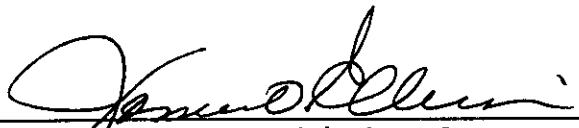
No. 90-C-966-E

ADMINISTRATIVE CLOSING ORDER

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Therefore it is not necessary that the action remain upon the calendar of the Court.

IT IS THEREFORE ORDERED that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation, order, judgment, or for any other purpose required to obtain a final determination of the litigation. The Court retains complete jurisdiction to vacate this order and to reopen the action upon cause shown within thirty (30) days that settlement has not been completed and further litigation is necessary.

ORDERED this 22^d day of January, 1992.


JAMES O. ELLISON, Chief Judge
UNITED STATES DISTRICT COURT

GLH/ta
12/11/91

FILED

JAN 24 1992

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

HELTON, GEORGE, et al.,

Plaintiff(s),

vs.

ANCHOR PACKING COMPANY, et al.,

Defendants.

No. 88-C-745-~~B~~ E

ORDER OF DISMISSAL

Upon Plaintiffs' motion, this action is hereby dismissed with the following reservations:

1. This dismissal in no way affects Plaintiffs' rights to pursue claims against Defendants currently seeking the protection of bankruptcy courts.

2. This dismissal is subject to prior dismissals regarding Plaintiffs' right to their potential claims for cancer and fear of cancer.

BY JAMES O. ELSON

U.S. DISTRICT COURT

GOAL-P6/GOA-RO1
-R-V1-2

JHP/sdc

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

GERALD DAVIS,

Plaintiff,

vs.

BERTHA MAE EPPERSON,

Defendant.

FILED

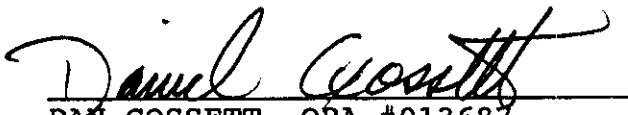
JAN 23 1992


Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA


No. 91-C-383-C

~~JOINT APPLICATION TO~~
DISMISS CLAIMS WITHOUT PREJUDICE

COME NOW all parties to the above styled matter and do hereby formally apply to this Court for an Order allowing these matters to be dismissed without any prejudice being attached to the refiling of said matters within the statutory permissible time in the proper jurisdiction and venue. This application is made with the full knowledge and agreement of all counsel as well as their clients, with each counsel and client to bear their own costs incurred in this matter.


DAN GOSSETT, OBA #013687
Attorney for plaintiff


DALE ELLIS, OBA #12280
Co-counsel for plaintiff


JOSEPH H. PAULK, OBA #10110
Attorney for defendant

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 23 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STEINAR REMETUN,

Plaintiff,

vs.

BRAD WEBB, d/b/a Webb
Leasing & Webb Boats,

Defendant.

Case No. 90-C-318-B

ADMINISTRATIVE CLOSING ORDER

The Parties having entered into a settlement agreement, it is hereby ordered that the Clerk administratively terminate this action in his records, without prejudice to the rights of the parties to reopen the proceedings for good cause shown for the entry of any stipulation or order, or for any other purpose required to obtain a final determination of the litigation.

IF, by May 15, 1992, the Parties have not reopened for the purpose of obtaining a final determination herein, this action shall be deemed dismissed with prejudice.

IT IS SO ORDERED this 23rd day of January, 1992.


UNITED STATES DISTRICT JUDGE
THOMAS R. BRETT

91-C-699-B

DOCKET NO. 875

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
FILED

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

CONDITIONAL TRANSFER ORDER

On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

It appears that the actions listed on the attached schedule involve questions of fact which are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Weiner.

Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 120 F.R.D. 251, 258, the actions on the attached schedule are hereby transferred under 28 U.S.C. §1407 to the Eastern District of Pennsylvania for the reasons stated in the opinion and order of July 29, 1991, (771 F.Supp. 415), as corrected on October 1, 1991, October 18, 1991, November 22, 1991, and December 9, 1991, and, with the consent of that court, assigned to the Honorable Charles R. Weiner.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL

Patricia D. Howard
Patricia D. Howard
Clerk of the Panel

INASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE

JAN 22 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
FILED

Jan. 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

DISTRICT	DIV	CIVIL ACTION#	DISTRICT	DIV	CIVIL ACTION#	DISTRICT	DIV	CIVIL ACTION#	DISTRICT	DIV	CIVIL ACTION#
DISTRICT OF COLUMBIA			NEW JERSEY			SC.			TN.,E.		
DC.	1	91-2892	NJ.	1	91-5483	SC.	2	91-3369	TN.,E.	2	91-91
FLORIDA SOUTHERN			NJ.	2	89-2468	SC.	2	91-3370	TN.,E.	2	91-92
FL.,S.	1	91-2217	NJ.	2	89-3062	SC.	2	91-3371	TN.,E.	2	91-93
FL.,S.	1	91-2493	NJ.	2	89-3102	SC.	2	91-3372			
FL.,S.	1	91-2495	NJ.	3	91-5521	SC.	2	91-3373			
FL.,S.	1	91-2496	NJ.	3	91-5524	SC.	2	91-3374			
GEORGIA SOUTHERN			NJ.	3	91-5548	SC.	2	91-3375	VIRGINIA EASTERN		
GA.,S.	4	91-279	NJ.	3	91-5590	SC.	2	91-3376	VA.,E.	2	91-761
GA.,S.	4	91-301	NEW YORK SOUTHERN			SC.	2	91-3396	VA.,E.	2	91-767
GA.,S.	5	91-345	NY.,S.	1	88-1949	SC.	2	91-3397	VA.,E.	2	91-775
GA.,S.	5	91-346	OKLAHOMA NORTHERN			SC.	2	91-3398	VA.,E.	2	91-786
GA.,S.	5	91-347	OK.,N.	4	91-699	SC.	2	91-3403	VA.,E.	2	91-787
GA.,S.	5	91-348	OK.,N.	4	91-730	SC.	2	91-3404	VA.,E.	2	91-795
GA.,S.	5	91-349	OK.,N.	4	91-731	SC.	2	91-3470	VA.,E.	2	91-807
GA.,S.	5	91-350	OK.,N.	4	91-732	SC.	2	91-3471	VA.,E.	2	91-818
GA.,S.	5	91-351	OK.,N.	4	91-733	SC.	2	91-3508	VA.,E.	2	91-823
GA.,S.	5	91-352	OK.,N.	4	91-734	SC.	2	91-3543	VA.,E.	2	91-825
GA.,S.	5	91-353	OK.,N.	4	91-735	TENNESSEE EASTERN			VA.,E.	2	91-849
GA.,S.	5	91-354	OK.,N.	4	91-736	TN.,E.	1	89-97	VA.,E.	2	91-855
GA.,S.	5	91-355	PENNSYLVANIA WESTERN			TN.,E.	1	91-48	VIRGIN ISLANDS		
GA.,S.	5	91-356	PA.,W.	2	91-1128	TN.,E.	1	91-76	VI.	1	90-308
GA.,S.	5	91-357	SOUTH CAROLINA			TN.,E.	1	91-77	VI.	1	91-136
IOWA SOUTHERN			SC.	2	91-3283	TN.,E.	1	91-115	VI.	1	91-201
IA.,S.	4	91-80745	SC.	2	91-3285	TN.,E.	1	91-197	VI.	1	91-218
KENTUCKY EASTERN			SC.	2	91-3326	TN.,E.	1	91-199	WISCONSIN WESTERN		
KY.,E.	6	90-263	SC.	2	91-3327	TN.,E.	1	91-200	WI.,W.	3	91-1054
KY.,E.	6	90-276	SC.	2	91-3334	TN.,E.	1	91-240	WI.,W.	3	91-1055
KY.,E.	6	90-282	SC.	2	91-3335	TN.,E.	1	91-241			
KY.,E.	6	90-285	SC.	2	91-3336	TN.,E.	1	91-242			
KY.,E.	6	91-70	SC.	2	91-3337	TN.,E.	1	91-267			
KY.,E.	6	91-72	SC.	2	91-3338	TN.,E.	1	91-298			
KY.,E.	6	91-77	SC.	2	91-3349	TN.,E.	1	91-299			
NEBRASKA			SC.	2	91-3350	TN.,E.	1	91-300			
NE.	8	91-106	SC.	2	91-3351	TN.,E.	2	91-53	WEST VIRGINIA NORTHERN		
			SC.	2	91-3356	TN.,E.	2	91-82	WV.,N.	5	91-49
			SC.	2	91-3368	TN.,E.	2	91-84	WV.,N.	5	91-50
						TN.,E.	2	91-85	WV.,N.	5	91-51
						TN.,E.	2	91-86	WV.,N.	5	91-52
						TN.,E.	2	91-87	WV.,N.	5	91-53
						TN.,E.	2	91-88	WV.,N.	5	91-54
						TN.,E.	2	91-89	WV.,N.	5	91-55
						TN.,E.	2	91-90	WV.,N.	5	91-56
									WV.,N.	5	91-57
									WV.,N.	5	91-58

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-C-730-E ✓

CONDITIONAL TRANSFER ORDER


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

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Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 120 F.R.D. 251, 258, the actions on the attached schedule are hereby transferred under 28 U.S.C. §1407 to the Eastern District of Pennsylvania for the reasons stated in the opinion and order of July 29, 1991, (771 F.Supp. 415), as corrected on October 1, 1991, October 18, 1991, November 22, 1991, and December 9, 1991, and, with the consent of that court, assigned to the Honorable Charles R. Weiner.


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FOR THE PANEL


Patricia D. Howard
Clerk of the Panel

INASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE

JAN 22 1992


PATRICIA D. HOWARD
CLERK OF THE PANEL

Jan. 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>
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FLORIDA SOUTHERN			NJ.	2	89-2468	SC.	2	91-3370	TN.,E.	2	91-92
FL.,S.	1	91-2217	NJ.	2	89-3062	SC.	2	91-3371	TN.,E.	2	91-93
FL.,S.	1	91-2493	NJ.	2	89-3102	SC.	2	91-3372	VIRGINIA EASTERN		
FL.,S.	1	91-2495	NJ.	3	91-5521	SC.	2	91-3373	VA.,E.	2	91-761
FL.,S.	1	91-2496	NJ.	3	91-5524	SC.	2	91-3374	VA.,E.	2	91-767
GEORGIA SOUTHERN			NJ.	3	91-5548	SC.	2	91-3375	VA.,E.	2	91-775
GA.,S.	4	91-279	NJ.	3	91-5590	SC.	2	91-3376	VA.,E.	2	91-786
GA.,S.	4	91-301	NEW YORK SOUTHERN			SC.	2	91-3396	VA.,E.	2	91-787
GA.,S.	5	91-345	NY.,S.	1	88-1949	SC.	2	91-3397	VA.,E.	2	91-795
GA.,S.	5	91-346	OKLAHOMA NORTHERN			SC.	2	91-3398	VA.,E.	2	91-807
GA.,S.	5	91-347	OK.,N.	4	91-699	SC.	2	91-3403	VA.,E.	2	91-818
GA.,S.	5	91-348	OK.,N.	4	91-730	SC.	2	91-3404	VA.,E.	2	91-823
GA.,S.	5	91-349	OK.,N.	4	91-731	SC.	2	91-3470	VA.,E.	2	91-825
GA.,S.	5	91-350	OK.,N.	4	91-732	SC.	2	91-3471	VA.,E.	2	91-825
GA.,S.	5	91-351	OK.,N.	4	91-733	SC.	2	91-3508	VA.,E.	2	91-849
GA.,S.	5	91-352	OK.,N.	4	91-734	SC.	2	91-3543	VA.,E.	2	91-855
GA.,S.	5	91-353	OK.,N.	4	91-735	TENNESSEE EASTERN			VIRGIN ISLANDS		
GA.,S.	5	91-354	OK.,N.	4	91-736	TN.,E.	1	89-97	VI.	1	90-308
GA.,S.	5	91-355	OK.,N.	4	91-736	TN.,E.	1	91-48	VI.	1	91-136
GA.,S.	5	91-356	PENNSYLVANIA WESTERN			TN.,E.	1	91-76	VI.	1	91-201
GA.,S.	5	91-357	PA.,W.	2	91-1128	TN.,E.	1	91-77	VI.	1	91-218
IOWA SOUTHERN			SOUTH CAROLINA			TN.,E.	1	91-115	WISCONSIN WESTERN		
IA.,S.	4	91-80745	SC.	2	91-3283	TN.,E.	1	91-197	WI.,W.	3	91-1054
KENTUCKY EASTERN			SC.	2	91-3285	TN.,E.	1	91-199	WI.,W.	3	91-1055
KY.,E.	6	90-263	SC.	2	91-3326	TN.,E.	1	91-200	WEST VIRGINIA NORTHERN		
KY.,E.	6	90-276	SC.	2	91-3327	TN.,E.	1	91-240	WV.,N.	5	91-49
KY.,E.	6	90-282	SC.	2	91-3334	TN.,E.	1	91-241	WV.,N.	5	91-50
KY.,E.	6	90-285	SC.	2	91-3335	TN.,E.	1	91-242	WV.,N.	5	91-51
KY.,E.	6	91-70	SC.	2	91-3336	TN.,E.	1	91-267	WV.,N.	5	91-52
KY.,E.	6	91-72	SC.	2	91-3337	TN.,E.	1	91-298	WV.,N.	5	91-53
KY.,E.	6	91-77	SC.	2	91-3338	TN.,E.	1	91-299	WV.,N.	5	91-54
NEBRASKA			SC.	2	91-3349	TN.,E.	2	91-300	WV.,N.	5	91-55
NE.	8	91-106	SC.	2	91-3350	TN.,E.	2	91-53	WV.,N.	5	91-56
			SC.	2	91-3351	TN.,E.	2	91-82	WV.,N.	5	91-57
			SC.	2	91-3356	TN.,E.	2	91-84	WV.,N.	5	91-58
			SC.	2	91-3368	TN.,E.	2	91-85			
						TN.,E.	2	91-86			
						TN.,E.	2	91-87			
						TN.,E.	2	91-88			
						TN.,E.	2	91-89			
						TN.,E.	2	91-90			

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-C-731-B ✓ **CONDITIONAL TRANSFER ORDER**


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

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FOR THE PANEL


Patricia D. Howard
Clerk of the PanelINASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE ✓

JAN 22 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

Jan. 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>
DISTRICT OF COLUMBIA			NEW JERSEY			SC.	2	91-3369	TN.,E.	2	91-91
DC.	1	91-2892	NJ.	1	91-5483	SC.	2	91-3370	TN.,E.	2	91-92
FLORIDA SOUTHERN			NJ.	2	89-2468	SC.	2	91-3371	TN.,E.	2	91-93
FL.,S.	1	91-2217	NJ.	2	89-3062	SC.	2	91-3372			
FL.,S.	1	91-2493	NJ.	2	89-3102	SC.	2	91-3373			
FL.,S.	1	91-2495	NJ.	3	91-5521	SC.	2	91-3374			
FL.,S.	1	91-2496	NJ.	3	91-5524	SC.	2	91-3375	VIRGINIA EASTERN		
			NJ.	3	91-5548	SC.	2	91-3376	VA.,E.	2	91-761
			NJ.	3	91-5590	SC.	2	91-3396	VA.,E.	2	91-767
GEORGIA SOUTHERN						SC.	2	91-3397	VA.,E.	2	91-775
GA.,S.	4	91-279				SC.	2	91-3398	VA.,E.	2	91-786
GA.,S.	4	91-301	NEW YORK SOUTHERN			SC.	2	91-3403	VA.,E.	2	91-787
GA.,S.	5	91-345	NY.,S.	1	88-1949	SC.	2	91-3404	VA.,E.	2	91-795
GA.,S.	5	91-346				SC.	2	91-3470	VA.,E.	2	91-807
GA.,S.	5	91-347	OKLAHOMA NORTHERN			SC.	2	91-3471	VA.,E.	2	91-818
GA.,S.	5	91-348	OK.,N.	4	91-699	SC.	2	91-3471	VA.,E.	2	91-823
GA.,S.	5	91-349	OK.,N.	4	91-730	SC.	2	91-3508	VA.,E.	2	91-825
GA.,S.	5	91-350	OK.,N.	4	91-731	SC.	2	91-3543	VA.,E.	2	91-849
GA.,S.	5	91-351	OK.,N.	4	91-732				VA.,E.	2	91-855
GA.,S.	5	91-352	OK.,N.	4	91-733	TENNESSEE EASTERN					
GA.,S.	5	91-353	OK.,N.	4	91-734	TN.,E.	1	89-97	VIRGIN ISLANDS		
GA.,S.	5	91-354	OK.,N.	4	91-734	TN.,E.	1	91-48	VI.	1	90-308
GA.,S.	5	91-355	OK.,N.	4	91-735	TN.,E.	1	91-76	VI.	1	91-136
GA.,S.	5	91-356	OK.,N.	4	91-736	TN.,E.	1	91-77	VI.	1	91-201
GA.,S.	5	91-357				TN.,E.	1	91-115	VI.	1	91-218
IOWA SOUTHERN			PENNSYLVANIA WESTERN			TN.,E.	1	91-197			
IA.,S.	4	91-80745	PA.,W.	2	91-1128	TN.,E.	1	91-199			
KENTUCKY EASTERN			SOUTH CAROLINA			TN.,E.	1	91-200			
KY.,E.	6	90-263	SC.	2	91-3283	TN.,E.	1	91-240			
KY.,E.	6	90-276	SC.	2	91-3285	TN.,E.	1	91-241			
KY.,E.	6	90-282	SC.	2	91-3326	TN.,E.	1	91-242			
KY.,E.	6	90-285	SC.	2	91-3327	TN.,E.	1	91-267			
KY.,E.	6	91-70	SC.	2	91-3334	TN.,E.	1	91-298			
KY.,E.	6	91-72	SC.	2	91-3335	TN.,E.	1	91-299			
KY.,E.	6	91-77	SC.	2	91-3336	TN.,E.	1	91-300			
			SC.	2	91-3337	TN.,E.	2	91-53	WEST VIRGINIA NORTHERN		
			SC.	2	91-3338	TN.,E.	2	91-82	WV.,N.	5	91-49
			SC.	2	91-3349	TN.,E.	2	91-84	WV.,N.	5	91-50
			SC.	2	91-3350	TN.,E.	2	91-85	WV.,N.	5	91-51
NEBRASKA			SC.	2	91-3351	TN.,E.	2	91-86	WV.,N.	5	91-52
NE.	8	91-106	SC.	2	91-3356	TN.,E.	2	91-87	WV.,N.	5	91-53
			SC.	2	91-3368	TN.,E.	2	91-88	WV.,N.	5	91-54
						TN.,E.	2	91-89	WV.,N.	5	91-55
						TN.,E.	2	91-90	WV.,N.	5	91-56
									WV.,N.	5	91-57
									WV.,N.	5	91-58

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-c-732-BV

CONDITIONAL TRANSFER ORDER


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

It appears that the actions listed on the attached schedule involve questions of fact which are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Weiner.

Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 120 F.R.D. 251, 258, the actions on the attached schedule are hereby transferred under 28 U.S.C. §1407 to the Eastern District of Pennsylvania for the reasons stated in the opinion and order of July 29, 1991, (771 F.Supp. 415), as corrected on October 1, 1991, October 18, 1991, November 22, 1991, and December 9, 1991, and, with the consent of that court, assigned to the Honorable Charles R. Weiner.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL


Patricia D. Howard
Clerk of the PanelINASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE

JAN 22 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

Jan. 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>
DISTRICT OF COLUMBIA			NEW JERSEY			SC.			TN.,E.		
DC.	1	91-2892	NJ.	1	91-5483	SC.	2	91-3369	TN.,E.	2	91-91
FLORIDA SOUTHERN			NJ.	2	89-2468	SC.	2	91-3370	TN.,E.	2	91-92
FL.,S.	1	91-2217	NJ.	2	89-3062	SC.	2	91-3371	TN.,E.	2	91-93
FL.,S.	1	91-2493	NJ.	2	89-3102	SC.	2	91-3372			
FL.,S.	1	91-2495	NJ.	3	91-5521	SC.	2	91-3373	VIRGINIA EASTERN		
FL.,S.	1	91-2496	NJ.	3	91-5524	SC.	2	91-3374	VA.,E.	2	91-761
GEORGIA SOUTHERN			NJ.	3	91-5548	SC.	2	91-3375	VA.,E.	2	91-767
GA.,S.	4	91-279	NJ.	3	91-5590	SC.	2	91-3376	VA.,E.	2	91-775
GA.,S.	4	91-301	NEW YORK SOUTHERN			SC.	2	91-3396	VA.,E.	2	91-786
GA.,S.	5	91-345	NY.,S.	1	88-1949	SC.	2	91-3397	VA.,E.	2	91-787
GA.,S.	5	91-346	OKLAHOMA NORTHERN			SC.	2	91-3398	VA.,E.	2	91-795
GA.,S.	5	91-347	OK.,N.	4	91-699	SC.	2	91-3403	VA.,E.	2	91-807
GA.,S.	5	91-348	OK.,N.	4	91-730	SC.	2	91-3404	VA.,E.	2	91-818
GA.,S.	5	91-349	OK.,N.	4	91-731	SC.	2	91-3470	VA.,E.	2	91-823
GA.,S.	5	91-350	OK.,N.	4	91-732	SC.	2	91-3471	VA.,E.	2	91-825
GA.,S.	5	91-351	OK.,N.	4	91-733	SC.	2	91-3508	VA.,E.	2	91-849
GA.,S.	5	91-352	OK.,N.	4	91-734	SC.	2	91-3543	VA.,E.	2	91-855
GA.,S.	5	91-353	OK.,N.	4	91-735	TENNESSEE EASTERN					
GA.,S.	5	91-354	OK.,N.	4	91-736	TN.,E.	1	89-97	VIRGIN ISLANDS		
GA.,S.	5	91-355	PENNSYLVANIA WESTERN			TN.,E.	1	91-48	VI.	1	90-308
GA.,S.	5	91-356	PA.,W.	2	91-1128	TN.,E.	1	91-76	VI.	1	91-136
GA.,S.	5	91-357	SOUTH CAROLINA			TN.,E.	1	91-77	VI.	1	91-201
IOWA SOUTHERN			SC.	2	91-3283	TN.,E.	1	91-115	VI.	1	91-218
IA.,S.	4	91-80745	SC.	2	91-3285	TN.,E.	1	91-197			
KENTUCKY EASTERN			SC.	2	91-3326	TN.,E.	1	91-199	WISCONSIN WESTERN		
KY.,E.	6	90-263	SC.	2	91-3327	TN.,E.	1	91-200	WI.,W.	3	91-1054
KY.,E.	6	90-276	SC.	2	91-3334	TN.,E.	1	91-240	WI.,W.	3	91-1055
KY.,E.	6	90-282	SC.	2	91-3335	TN.,E.	1	91-241			
KY.,E.	6	90-285	SC.	2	91-3336	TN.,E.	1	91-242	WEST VIRGINIA NORTHERN		
KY.,E.	6	91-70	SC.	2	91-3337	TN.,E.	1	91-267	WV.,N.	5	91-49
KY.,E.	6	91-72	SC.	2	91-3338	TN.,E.	1	91-298	WV.,N.	5	91-50
KY.,E.	6	91-77	SC.	2	91-3339	TN.,E.	1	91-299	WV.,N.	5	91-51
NEBRASKA			SC.	2	91-3350	TN.,E.	2	91-300	WV.,N.	5	91-52
NE.	8	91-106	SC.	2	91-3351	TN.,E.	2	91-53	WV.,N.	5	91-53
			SC.	2	91-3356	TN.,E.	2	91-82	WV.,N.	5	91-54
			SC.	2	91-3368	TN.,E.	2	91-84	WV.,N.	5	91-55
						TN.,E.	2	91-85	WV.,N.	5	91-56
						TN.,E.	2	91-86	WV.,N.	5	91-57
						TN.,E.	2	91-87	WV.,N.	5	91-58
						TN.,E.	2	91-88			
						TN.,E.	2	91-89			
						TN.,E.	2	91-90			

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-C-733-C ✓ **CONDITIONAL TRANSFER ORDER**


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

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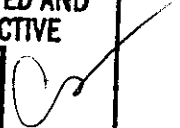
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FOR THE PANEL


Patricia D. Howard
Clerk of the Panel

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THIS ORDER BECOMES EFFECTIVE

JAN 22 1992


PATRICIA D. HOWARD
CLERK OF THE PANEL

Jan. 6, 1992

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SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>
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FLORIDA SOUTHERN			NJ.	2	89-2468	SC.	2	91-3370	TN.,E.	2	91-92
FL.,S.	1	91-2217	NJ.	2	89-3062	SC.	2	91-3371	TN.,E.	2	91-93
FL.,S.	1	91-2493	NJ.	2	89-3102	SC.	2	91-3372	VIRGINIA EASTERN		
FL.,S.	1	91-2495	NJ.	3	91-5521	SC.	2	91-3373	VA.,E.	2	91-761
FL.,S.	1	91-2496	NJ.	3	91-5524	SC.	2	91-3374	VA.,E.	2	91-767
GEORGIA SOUTHERN			NJ.	3	91-5548	SC.	2	91-3375	VA.,E.	2	91-775
GA.,S.	4	91-279	NJ.	3	91-5590	SC.	2	91-3376	VA.,E.	2	91-786
GA.,S.	4	91-301	NEW YORK SOUTHERN			SC.	2	91-3396	VA.,E.	2	91-787
GA.,S.	5	91-345	NY.,S.	1	88-1949	SC.	2	91-3397	VA.,E.	2	91-795
GA.,S.	5	91-346	OKLAHOMA NORTHERN			SC.	2	91-3398	VA.,E.	2	91-807
GA.,S.	5	91-347	OK.,N.	4	91-699	SC.	2	91-3403	VA.,E.	2	91-818
GA.,S.	5	91-348	OK.,N.	4	91-730	SC.	2	91-3404	VA.,E.	2	91-823
GA.,S.	5	91-349	OK.,N.	4	91-731	SC.	2	91-3470	VA.,E.	2	91-825
GA.,S.	5	91-350	OK.,N.	4	91-732	SC.	2	91-3471	VA.,E.	2	91-849
GA.,S.	5	91-351	OK.,N.	4	91-733	SC.	2	91-3508	VA.,E.	2	91-855
GA.,S.	5	91-352	OK.,N.	4	91-734	SC.	2	91-3543	Tennessee Eastern		
GA.,S.	5	91-353	OK.,N.	4	91-735	TN.,E.			VIRGIN ISLANDS		
GA.,S.	5	91-354	OK.,N.	4	91-736	TN.,E.	1	89-97	VI.	1	90-308
GA.,S.	5	91-355	PENNSYLVANIA WESTERN			TN.,E.	1	91-48	VI.	1	91-136
GA.,S.	5	91-356	PA.,W.	2	91-1128	TN.,E.	1	91-76	VI.	1	91-201
GA.,S.	5	91-357	SOUTH CAROLINA			TN.,E.	1	91-77	VI.	1	91-218
IOWA SOUTHERN			SC.	2	91-3283	TN.,E.	1	91-115	WISCONSIN WESTERN		
IA.,S.	4	91-80745	SC.	2	91-3285	TN.,E.	1	91-197	WI.,W.	3	91-1054
KENTUCKY EASTERN			SC.	2	91-3326	TN.,E.	1	91-199	WI.,W.	3	91-1055
KY.,E.	6	90-263	SC.	2	91-3327	TN.,E.	1	91-200	WEST VIRGINIA NORTHERN		
KY.,E.	6	90-276	SC.	2	91-3334	TN.,E.	1	91-240	WV.,N.	5	91-49
KY.,E.	6	90-282	SC.	2	91-3335	TN.,E.	1	91-241	WV.,N.	5	91-50
KY.,E.	6	90-285	SC.	2	91-3336	TN.,E.	1	91-242	WV.,N.	5	91-51
KY.,E.	6	91-70	SC.	2	91-3337	TN.,E.	1	91-267	WV.,N.	5	91-52
KY.,E.	6	91-72	SC.	2	91-3338	TN.,E.	1	91-298	WV.,N.	5	91-53
KY.,E.	6	91-77	SC.	2	91-3349	TN.,E.	1	91-299	WV.,N.	5	91-54
NEBRASKA			SC.	2	91-3350	opposed 1/22/92			WV.,N.	5	91-55
NE.	8	91-106	SC.	2	91-3351	opposed 1/22/92			WV.,N.	5	91-56
			SC.	2	91-3356	opposed 1/22/92			WV.,N.	5	91-57
			SC.	2	91-3368	opposed 1/22/92			WV.,N.	5	91-58
						TN.,E.	2	91-88			
						TN.,E.	2	91-89			
						TN.,E.	2	91-90			

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-C-734-C ✓

CONDITIONAL TRANSFER ORDER


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

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FOR THE PANEL:


Patricia D. Howard
Clerk of the Panel

INASMUCH AS NO OBJECTION IS PENDING
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JAN 22 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

Jan. 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>	<u>DISTRICT</u>	<u>DIV</u>	<u>CIVIL ACTION#</u>
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GA.,S.	5	91-352	OK.,N.	4	91-734	SC.	2	91-3543	VA.,E.	2	91-855
GA.,S.	5	91-353	OK.,N.	4	91-735	TENNESSEE EASTERN					
GA.,S.	5	91-354	OK.,N.	4	91-736	TN.,E.	1	89-97	VIRGIN ISLANDS		
GA.,S.	5	91-355	PENNSYLVANIA WESTERN			TN.,E.	1	91-48	VI.	1	90-308
GA.,S.	5	91-356	PA.,W.	2	91-1128	TN.,E.	1	91-76	VI.	1	91-136
GA.,S.	5	91-357	SOUTH CAROLINA			TN.,E.	1	91-77	VI.	1	91-201
IOWA SOUTHERN			SC.	2	91-3283	TN.,E.	1	91-115	VI.	1	91-218
IA.,S.	4	91-80745	SC.	2	91-3285	TN.,E.	1	91-197			
KENTUCKY EASTERN			SC.	2	91-3326	TN.,E.	1	91-199	WISCONSIN WESTERN		
KY.,E.	6	90-263	SC.	2	91-3327	TN.,E.	1	91-200	WI.,W.	3	91-1054
KY.,E.	6	90-276	SC.	2	91-3334	TN.,E.	1	91-240	WI.,W.	3	91-1055
KY.,E.	6	90-282	SC.	2	91-3335	TN.,E.	1	91-241			
KY.,E.	6	90-285	SC.	2	91-3336	TN.,E.	1	91-242	WEST VIRGINIA NORTHERN		
KY.,E.	6	91-70	SC.	2	91-3337	TN.,E.	1	91-267	WV.,N.	5	91-49
KY.,E.	6	91-72	SC.	2	91-3338	TN.,E.	1	91-298	WV.,N.	5	91-50
KY.,E.	6	91-77	SC.	2	91-3349	TN.,E.	1	91-299	WV.,N.	5	91-51
NEBRASKA			SC.	2	91-3350	TN.,E.	2	91-300	WV.,N.	5	91-52
NE.	8	91-106	SC.	2	91-3351	TN.,E.	2	91-53	WV.,N.	5	91-53
			SC.	2	91-3356	TN.,E.	2	91-82	WV.,N.	5	91-54
			SC.	2	91-3368	TN.,E.	2	91-84	WV.,N.	5	91-55
						TN.,E.	2	91-85	WV.,N.	5	91-56
						TN.,E.	2	91-86	WV.,N.	5	91-57
						TN.,E.	2	91-87	WV.,N.	5	91-58
						TN.,E.	2	91-88			
						TN.,E.	2	91-89			
						TN.,E.	2	91-90			

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-c-735-B ✓

CONDITIONAL TRANSFER ORDER


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

It appears that the actions listed on the attached schedule involve questions of fact which are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Weiner.

Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 120 F.R.D. 251, 258, the actions on the attached schedule are hereby transferred under 28 U.S.C. §1407 to the Eastern District of Pennsylvania for the reasons stated in the opinion and order of July 29, 1991, (771 F.Supp. 415), as corrected on October 1, 1991, October 18, 1991, November 22, 1991, and December 9, 1991, and, with the consent of that court, assigned to the Honorable Charles R. Weiner.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL


Patricia D. Howard
Clerk of the Panel

INASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE

JAN 22 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

DISTRICT

DIV

CIVIL ACTION#

DISTRICT

DIV

CIVIL ACTION#

DISTRICT

DIV

CIVIL ACTION#

DISTRICT

DIV

CIVIL ACTION#

DISTRICT OF COLUMBIA

DC.

1

91-2892

FLORIDA SOUTHERN

FL.,S.

1

91-2217

FL.,S.

1

91-2493

FL.,S.

1

91-2495

FL.,S.

1

91-2496

*GEORGIA SOUTHERN

GA.,S.

4

91-279

GA.,S.

4

91-301

GA.,S.

5

91-345

GA.,S.

5

91-346

GA.,S.

5

91-347

GA.,S.

5

91-348

GA.,S.

5

91-349

GA.,S.

5

91-350

GA.,S.

5

91-351

GA.,S.

5

91-352

GA.,S.

5

91-353

GA.,S.

5

91-354

GA.,S.

5

91-355

GA.,S.

5

91-356

GA.,S.

5

91-357

IOWA SOUTHERN

IA.,S.

4

91-80745

KENTUCKY EASTERN

KY.,E.

6

90-263

KY.,E.

6

90-276

KY.,E.

6

90-282

KY.,E.

6

90-285

KY.,E.

6

91-70

KY.,E.

6

91-72

KY.,E.

6

91-77

NEBRASKA

NE.

8

91-106

NEW JERSEY

NJ.

1

91-5483

NJ.

2

89-2468

NJ.

2

89-3062

NJ.

2

89-3102

NJ.

3

91-5521

NJ.

3

91-5524

NJ.

3

91-5548

NJ.

3

91-5590

NEW YORK SOUTHERN

NY.,S.

1

88-1949

OKLAHOMA NORTHERN

OK.,N.

4

91-699

OK.,N.

4

91-730

OK.,N.

4

91-731

OK.,N.

4

91-732

OK.,N.

4

91-733

OK.,N.

4

91-734

OK.,N.

4

91-735

OK.,N.

4

91-736

PENNSYLVANIA WESTERN

PA.,W.

2

91-1128

SOUTH CAROLINA

SC.

2

91-3283

SC.

2

91-3285

SC.

2

91-3326

SC.

2

91-3327

SC.

2

91-3334

SC.

2

91-3335

SC.

2

91-3336

SC.

2

91-3337

SC.

2

91-3338

SC.

2

91-3349

SC.

2

91-3350

SC.

2

91-3351

SC.

2

91-3356

SC.

2

91-3368

SC.

2

91-3369

SC.

2

91-3370

SC.

2

91-3371

SC.

2

91-3372

SC.

2

91-3373

SC.

2

91-3374

SC.

2

91-3375

SC.

2

91-3376

SC.

2

91-3396

SC.

2

91-3397

SC.

2

91-3398

SC.

2

91-3403

SC.

2

91-3404

SC.

2

91-3470

SC.

2

91-3471

SC.

2

91-3508

SC.

2

91-3543

TENNESSEE EASTERN

TN.,E.

1

89-97

TN.,E.

1

91-48

TN.,E.

1

91-76

TN.,E.

1

91-77

TN.,E.

1

91-115

TN.,E.

1

91-197

TN.,E.

1

91-199

TN.,E.

1

91-200

TN.,E.

1

91-240

TN.,E.

1

91-241

TN.,E.

1

91-242

TN.,E.

1

91-267

TN.,E.

1

91-298

TN.,E.

1

91-299

TN.,E.

1

91-300

TN.,E.

2

91-53

TN.,E.

2

91-82

TN.,E.

2

91-84

TN.,E.

2

91-85

TN.,E.

2

91-86

TN.,E.

2

91-87

TN.,E.

2

91-88

TN.,E.

2

91-89

TN.,E.

2

91-90

TN.,E.

2

91-91

TN.,E.

2

91-92

TN.,E.

2

91-93

VIRGINIA EASTERN

VA.,E.

2

91-761

VA.,E.

2

91-767

VA.,E.

2

91-775

VA.,E.

2

91-786

VA.,E.

2

91-787

VA.,E.

2

91-795

VA.,E.

2

91-807

VA.,E.

2

91-818

VA.,E.

2

91-823

VA.,E.

2

91-825

VA.,E.

2

91-849

VA.,E.

2

91-855

VIRGIN ISLANDS

VI.

1

90-308

VI.

1

91-136

VI.

1

91-201

VI.

1

91-218

WISCONSIN WESTERN

WI.,W.

3

91-1054

WI.,W.

3

91-1055

WEST VIRGINIA NORTHERN

WV.,N.

5

91-49

WV.,N.

5

91-50

WV.,N.

5

91-51

WV.,N.

5

91-52

WV.,N.

5

91-53

WV.,N.

5

91-54

WV.,N.

5

91-55

WV.,N.

5

91-56

WV.,N.

5

91-57

WV.,N.

5

91-58

January 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

DOCKET NO. 875

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

(SEE ATTACHED SCHEDULE CTO-9)

91-c-736-B ✓

CONDITIONAL TRANSFER ORDER


On July 29, 1991, the Panel transferred 27,696 civil actions to the United States District Court for the Eastern District of Pennsylvania for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 3,200 additional actions have been transferred to the Eastern District of Pennsylvania. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Weiner.

It appears that the actions listed on the attached schedule involve questions of fact which are common to the actions previously transferred to the Eastern District of Pennsylvania and assigned to Judge Weiner.

Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 120 F.R.D. 251, 258, the actions on the attached schedule are hereby transferred under 28 U.S.C. §1407 to the Eastern District of Pennsylvania for the reasons stated in the opinion and order of July 29, 1991, (771 F.Supp. 415), as corrected on October 1, 1991, October 18, 1991, November 22, 1991, and December 9, 1991, and, with the consent of that court, assigned to the Honorable Charles R. Weiner.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the Eastern District of Pennsylvania. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL


Patricia D. Howard
Clerk of the Panel

INASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE

JAN 22 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
FILED

Jan. 6, 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

SCHEDULE CTO-9 — TAG ALONG CASES
DOCKET NO. 875
IN RE ASBESTOS PRODUCTS LIABILITY LITIGATION (NO. VI)

DISTRICT	DIV	CIVIL ACTION#	DISTRICT	DIV	CIVIL ACTION#	DISTRICT	DIV	CIVIL ACTION#	DISTRICT	DIV	CIVIL ACTION#
DISTRICT OF COLUMBIA			NEW JERSEY			SC.			TN.,E.		
DC.	1	91-2892	NJ.	1	91-5483	SC.	2	91-3369	TN.,E.	2	91-91
FLORIDA SOUTHERN			NJ.	2	89-2468	SC.	2	91-3370	TN.,E.	2	91-92
FL.,S.	1	91-2217	NJ.	2	89-3062	SC.	2	91-3371	TN.,E.	2	91-93
FL.,S.	1	91-2493	NJ.	2	89-3102	SC.	2	91-3372			
FL.,S.	1	91-2495	NJ.	3	91-5521	SC.	2	91-3373			
FL.,S.	1	91-2496	NJ.	3	91-5524	SC.	2	91-3374			
GEORGIA SOUTHERN			NJ.	3	91-5548	SC.	2	91-3375	VIRGINIA EASTERN		
GA.,S.	4	91-279	NJ.	3	91-5590	SC.	2	91-3376	VA.,E.	2	91-761
GA.,S.	4	91-301	NEW YORK SOUTHERN			SC.	2	91-3396	VA.,E.	2	91-767
GA.,S.	5	91-345	NY.,S.	1	88-1949	SC.	2	91-3397	VA.,E.	2	91-775
GA.,S.	5	91-346	OKLAHOMA NORTHERN			SC.	2	91-3398	VA.,E.	2	91-786
GA.,S.	5	91-347	OK.,N.	4	91-699	SC.	2	91-3403	VA.,E.	2	91-787
GA.,S.	5	91-348	OK.,N.	4	91-730	SC.	2	91-3404	VA.,E.	2	91-795
GA.,S.	5	91-349	OK.,N.	4	91-731	SC.	2	91-3470	VA.,E.	2	91-807
GA.,S.	5	91-350	OK.,N.	4	91-732	SC.	2	91-3471	VA.,E.	2	91-818
GA.,S.	5	91-351	OK.,N.	4	91-733	SC.	2	91-3471	VA.,E.	2	91-823
GA.,S.	5	91-352	OK.,N.	4	91-734	SC.	2	91-3508	VA.,E.	2	91-825
GA.,S.	5	91-353	OK.,N.	4	91-735	SC.	2	91-3543	VA.,E.	2	91-849
GA.,S.	5	91-354	OK.,N.	4	91-736	TENNESSEE EASTERN			VA.,E.	2	91-855
GA.,S.	5	91-355	PENNSYLVANIA WESTERN			TN.,E.	1	89-97	VIRGIN ISLANDS		
GA.,S.	5	91-356	PA.,W.	2	91-1128	TN.,E.	1	91-48	VI.	1	90-308
GA.,S.	5	91-357	SOUTH CAROLINA			TN.,E.	1	91-76	VI.	1	91-136
IOWA SOUTHERN			SC.	2	91-3283	TN.,E.	1	91-77	VI.	1	91-201
IA.,S.	4	91-80745	SC.	2	91-3285	TN.,E.	1	91-115	VI.	1	91-218
KENTUCKY EASTERN			SC.	2	91-3285	TN.,E.	1	91-197	WISCONSIN WESTERN		
KY.,E.	6	90-263	SC.	2	91-3326	TN.,E.	1	91-199	WI.,W.	3	91-1054
KY.,E.	6	90-276	SC.	2	91-3327	TN.,E.	1	91-200	WI.,W.	3	91-1055
KY.,E.	6	90-282	SC.	2	91-3334	TN.,E.	1	91-240			
KY.,E.	6	90-285	SC.	2	91-3335	TN.,E.	1	91-241			
KY.,E.	6	91-70	SC.	2	91-3336	TN.,E.	1	91-242			
KY.,E.	6	91-72	SC.	2	91-3337	TN.,E.	1	91-267			
KY.,E.	6	91-77	SC.	2	91-3338	TN.,E.	1	91-298			
NEBRASKA			SC.	2	91-3349	TN.,E.	1	91-299			
NE.	8	91-106	SC.	2	91-3350	TN.,E.	1	91-300			
			SC.	2	91-3351	TN.,E.	2	91-53	WEST VIRGINIA NORTHERN		
			SC.	2	91-3356	TN.,E.	2	91-82	WV.,N.	5	91-49
			SC.	2	91-3368	TN.,E.	2	91-84	WV.,N.	5	91-50
						TN.,E.	2	91-85	WV.,N.	5	91-51
						TN.,E.	2	91-86	WV.,N.	5	91-52
						TN.,E.	2	91-87	WV.,N.	5	91-53
						TN.,E.	2	91-88	WV.,N.	5	91-54
						TN.,E.	2	91-89	WV.,N.	5	91-55
						TN.,E.	2	91-90	WV.,N.	5	91-56
									WV.,N.	5	91-57
									WV.,N.	5	91-58

IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 22 1992

TED L. STEEPLES and DOROTHY
A. STEEPLES,

Plaintiffs,

vs.

TIME INSURANCE COMPANY, a
corporation, and ALBERT
DARRELL SMITH, an individual, and
SAUNDRA V. SMITH, an individual

Defendants.

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA


Case No. 91-C-0064-E

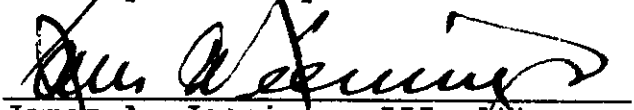
ORDER OF DISMISSAL WITH PREJUDICE

Pursuant to the Stipulation of the parties herein, all claims, complaints, cross claims, cross complaints, and causes of action of any type asserted by and between the parties herein are hereby dismissed with prejudice to the bringing of any further action thereon.

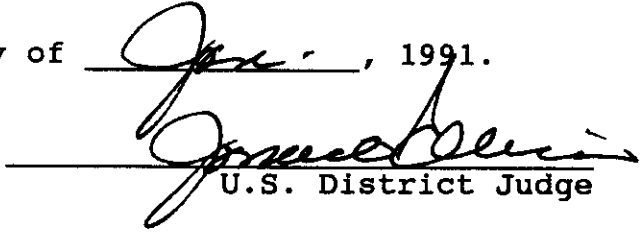
IT IS SO ORDERED this 22^d day of Jan., 1991.

APPROVED:


Pat Carr, Attorney for
Dorothy A. Steeples


James A. Jennings, III, Attorney
for Albert Darrell Smith and
Saundra V. Smith


Jo Anne Deaton, Attorney for
Time Insurance Company


U.S. District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

MARGRETTE CARROLL,

Plaintiff,

vs.

No. 90-C-736-B

CHARLES H. OSTRANDER, individually,
THE JAMES R. CARROLL, M.D., INC.
PENSION PLAN; THE PROFIT SHARING
PLAN OF JAMES R. CARROLL, M.D.,
INC., LISA L. CARROLL, an
individual; JAMES R. CARROLL, JR.,
an individual; and BRENT T.
CARROLL, an individual,

Defendants.

FILED


JAN 22 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

J U D G M E N T

In keeping with the Findings of Fact and Conclusions of Law herein entered this date, Judgment is hereby entered in favor of the Defendants, Charles H. Ostrander, individually; The James R. Carroll, M.D. Inc Pension Plan; The Profit Sharing Plan of James R. Carroll, M.D., Inc.; Lisa L. Carroll, an individual; James R. Carroll, Jr., an individual; and Brent T. Carroll, an individual; and against the Plaintiff, Margrette Carroll, relative to her alleged three causes of action pursuant to ERISA, 29 U.S.C. § 1001 *et seq.*, and Plaintiff's action is hereby dismissed. Costs are assessed against the Plaintiff, Margrette Carroll, and in favor of the Defendants as the prevailing party. Any party claiming entitlement to attorneys fees herein shall comply with Local Rule 6.

DATED this 22nd day of January, 1992.


THOMAS R. BRETT
UNITED STATES DISTRICT COURT

DOCKET NO. 865

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION
FILED

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE SHOWA DENKO K.K. L-TRYPTOPHAN PRODUCTS LIABILITY
LITIGATION (NO. II)

DEC 26 91

PATRICIA D. HOWARD
CLERK OF THE PANEL

FILED
JAN 22 1992
JAN 17 1992

Bonnie Baldridge v. Safeway Stores, Inc.
N.D. Oklahoma, C.A. No. 91-C-890-E
U.S. DISTRICT COURT
7:92-6152-0

ANN A. BIRCH, CLERK
COLUMBIA, S. C.

CONDITIONAL TRANSFER ORDER

On December 7, 1990, the Panel transferred 16 civil actions to the United States District Court for the District of South Carolina for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. §1407. Since that time, more than 460 actions have also been transferred to the District of South Carolina. With the consent of that court, all such actions have been assigned to the Honorable Matthew J. Perry, Jr.

It appears from the pleadings filed in the above-captioned action that it involves questions of fact which are common to the actions previously transferred to the District of South Carolina and assigned to Judge Perry.

Pursuant to Rule 12 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 120 F.R.D. 251, 258, the above-captioned action is hereby transferred under 28 U.S.C. §1407 to the District of South Carolina for the reasons stated in the order of December 7, 1990, and, with the consent of that court, assigned to the Honorable Matthew J. Perry, Jr.

This order does not become effective until it is filed in the office of the Clerk of the United States District Court for the District of South Carolina. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Patricia D. Howard
Patricia D. Howard
Clerk of the Panel

INASMUCH AS NO OBJECTION IS PENDING
AT THIS TIME THE STAY IS LIFTED AND
THIS ORDER BECOMES EFFECTIVE

JAN 13 1992

PATRICIA D. HOWARD
CLERK OF THE PANEL

A CERTIFIED TRUE COPY

JAN 13

ATTEST *Denise Seale*
FOR THE JUDICIAL PANEL OF
MULTIDISTRICT LITIGATION

A TRUE COPY

Attest: Ann A. Birch, Clerk

By: *Emily S. Deck*
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 22 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

QSC PRODUCTS, LTD., a Pennsylvania)
corporation,)

Plaintiff,)

vs.)

FEDERAL PACKAGING CORPORATION,)
formerly known as Kardon)
Industries, Inc., a Delaware)
corporation,)

Defendant.)

Civil Action No. 91-C-216-B

STIPULATION OF DISMISSAL

PURSUANT TO Fed.R.Civ.P. 41(a)(1)(ii) the parties stipulate that this action should be dismissed as to all claims and request the Clerk of the Court to dismiss this action with prejudice, forthwith.

DATED, this 17 day of January, 1992.

HOUSTON AND KLEIN, INC.

By 

David W. Wulfers, OBA No. 9926
320 South Boston, Suite 700
Tulsa, Oklahoma 74103
918/583-2131

ATTORNEYS FOR PLAINTIFF

BRADSHAW & BRADSHAW

By 

Scott W. Bradshaw, OBA No. 1051
1717 East 15th Street
P.O. Box 14130
Tulsa, Oklahoma 74159
918/749-3338

ATTORNEYS FOR DEFENDANT

FILED

JAN 22 1992

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

BRISTOL RESOURCES CORPORATION,
an Oklahoma corporation,

Plaintiff,

v.

S.L. ENERGY PARTNERS, L.P.,
a Delaware Limited Partnership,

Defendant.

Case No. 91-C-115-*LB*

STIPULATION OF DISMISSAL WITH PREJUDICE

Plaintiff, Bristol Resources Corporation, and Defendant, S.L. Energy Partners, L.P., hereby stipulate that this action and all claims asserted in it by either of the parties may be and hereby are dismissed with prejudice to the refiling thereof, by virtue of the execution of the settlement agreement between the parties.

By:

Richard B. Noulles
James M. Sturdivant
Richard B. Noulles
GABLE & GOTWALS
2000 Fourth National Bank Bldg.
Tulsa, Oklahoma 74119

and

Kenneth F. Albright
Dale J. Gilsinger
Gerald R. Schrader
ALBRIGHT & GILSINGER
2601 Fourth National Bank Bldg.
Tulsa, Oklahoma 74119

ATTORNEYS FOR PLAINTIFF
BRISTOL RESOURCES CORPORATION

By: Claire V Eagan
Claire V. Eagan
HALL, ESTILL, HARDWICK, GABLE,
GOLDEN & NELSON, P.C.
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One Williams Center
Tulsa, Oklahoma 74172
(918) 588-2735

and

Ronald D. Secrest
FULBRIGHT & JAWORSKI
• 1302 McKinney, Suite 5100
Houston, Texas 77010
(713) 651-5151

ATTORNEYS FOR DEFENDANT
S.L. ENERGY PARTNERS, L.P.

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

FILED

JAN 21 1992

Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

ARW EXPLORATION CORPORATION, an
Oklahoma corporation,
Plaintiff,

v.

ANTHANSIOS PAPATHANASOPOUSOS, et al.,
Defendants.

Case No. 91-C-836 E

DEFAULT JUDGMENT


The Defendants, Anthansios Papathanasopoulos, Staurola Papathanasopoulos, Dr. George Ioannides, Chris Dalamangas, Anastasios Andriopoulos, Kyriakos Ioannides, Nadia Ioannides, Christos, Kartsonis, Maria Kartsonis, Demetrios Kartsonis, Demetra Kartsonis, Dr. Charles Bender, Dr. Steve Poulos, Vasso Poulos, Asterios Stogiannis, ~~Tina Stogiannis~~, Dorothy Raychoudhury, Dr. Neal Roth, Voula Papathanasopoulos, Gerasimos Vallianos, Barry W. Covington, Cesar V. Aguirre, Terry Kaltsas, Peter Delaportas, George Magouliotis, and Spiridoula Kaltsas having been regularly served with process, as appears from the pleadings on file herein, and having failed to appear or plead or otherwise defend the Plaintiff's Complaint, within the time allowed bylaw and the time for same having expired and the clerk having entered the default of said named Defendants herein;

NOW, upon application of Karen L. Howick & Associates, attorneys for Plaintiff, judgment by default against the following Defendants

in the following ammounts in favor of Plaintiff is hereby entered herein, according to law:

<u>DEFENDANT</u>	<u>AMOUNT</u>
Anthansios Papathanasopoulos	\$16,750.36
Staurola Papathanasopoulos	\$16,750.36
Dr. George Ioannides	\$45,787.40
Chris Dalamagas	\$16,750.36
Anastasios Andriopoulos	\$36,381.24
Kyriakos Ioannides	\$49,974.98
Nadia Ioannides	\$37,688.31
Christos Kartsonis	\$40,878.13
Maria Kartsonis	\$37,688.31
Demetrios Kartsonis	\$55,409.45
Demetra Kartsonis	\$37,688.31
Dr. Charles Bender	\$49,774.98
Dr. Steve Poulos	\$53,466.68
Vassos Poulos	\$33,500.73
Asterios Stogiannis	\$3,213.44
Dorothy Roychoudhury	\$4,961.94
Cesar V. Aguirre	\$3,071.66
Dr. Neal Roth	\$12,286.67
Terry Kaltsas	\$3,544.26
Spiridoula Kaltsas	\$3,544.26
Voula Papathanasopoulos	\$2,362.80
Peter Delaportas	\$6,143.31
Gerasimos Vallianos	\$6143.31
George Magouliotis	\$12,286.67
Barry W. Covington	\$3,071.66

DATED this 21st day of January, 1992.

U.S. District Court Clerk
By: 
Richard M. Lawrence, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF OKLAHOMA

ARW EXPLORATION CORPORATION, an)
Oklahoma corporation,)
)
Plaintiff,)
)
v.)
)
ANTHANSIOS PAPATHANASOPOULOS, et al.,)
)
Defendants.)

FILED
JAN 21 1992
Richard M. Lawrence, Clerk
U.S. DISTRICT COURT

Case No. 91-C-836 E

DEFAULT JUDGMENT

The Defendants, D. A. Nohrr, P. F. Nohrr, Evagellos Rentezelas, Eleni Rentezelas and Charles P. Carroll having been regularly served with process, as appears from the pleadings on file herein, and having failed to appear or plead or otherwise defend the Plaintiff's Complaint, within the time allowed by law and the time for same having expired and the clerk having entered the default of said named Defendants herein;

NOW, upon application of Karen L. Howick & Associates, attorneys for Plaintiff, judgment by default against the following Defendants in the following amounts in favor of Plaintiff is hereby entered herein, according to law:

<u>DEFENDANT</u>	<u>AMOUNT</u>
D.A. Nohrr	\$1,535.83
P.F. Nohrr	\$1,535.83
Evagellos Rentezelas	\$1,890.27
Eleni Rentezelas	\$1,890.27
Charles P. Carroll	\$10,307.92

DATED this 21st day of January, 1992.

U.S. DISTRICT COURT CLERK

By:

H. Campbell, Deputy Clerk

Richard M. Lawrence, Clerk

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

REECE EZELL, JR. and MARY G.
EZELL, a/k/a MARY GAY EZELL,
husband and wife, individually
and as partners of Reece's
Barbeque; STATE OF OKLAHOMA
ex rel. OKLAHOMA TAX COMMISSION;
and GEORGES OF OKLAHOMA, INC.,

Defendants.

FILED

JAN 21 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 90-C-571-B

DEFICIENCY JUDGMENT

This matter comes on for consideration this 21 day of Jan, 19 92, upon the Motion of the Plaintiff, United States of America, acting on behalf of the U.S. Small Business Administration, for leave to enter a Deficiency Judgment. The Plaintiff appears by Tony M. Graham, United States Attorney for the Northern District of Oklahoma, through Peter Bernhardt, Assistant United States Attorney, and the Defendants, Reece Ezell, Jr. and Mary G. Ezell a/k/a Mary Gay Ezell, appear neither in person nor by counsel.

The Court being fully advised and having examined the court file finds that a copy of Plaintiff's Motion was mailed to Reece Ezell, Jr. and Mary G. Ezell a/k/a Mary Gay Ezell, 2236 N. Victor, Tulsa, Oklahoma 74106, and all other counsel and parties of record.

The Court further finds that the amount of the Judgment rendered on February 8, 1991, in favor of the Plaintiff United States of America, and against the Defendants, Reece Ezell, Jr. and Mary G. Ezell

a/k/a Mary Gay Ezell, with interest and costs to date of sale is \$448,563.94.

The Court further finds that the appraised value of the real property at the time of sale was \$70,000.00.

The Court further finds that the real property involved herein was sold at Marshal's sale, pursuant to the Judgment of this Court entered February 8, 1991, for the sum of \$40,100.00 which is less than the market value.

The Court further finds that the Marshal's sale was confirmed pursuant to the Order of this Court on January 3, 1992.

The Court further finds that the Plaintiff, United States of America on behalf of the U.S. Small Business Administration, is accordingly entitled to a deficiency judgment against the Defendants, Reece Ezell, Jr. and Mary G. Ezell a/k/a Mary Gay Ezell, as follows:

Principal Balance as of 2-8-91	\$263,650.47
Interest	182,217.62
Appraisal by Agency	200.00
Management Broker Fees to Date of Sale	441.90
Abstracting	138.00
1990 Real Property Taxes	1,530.00
Publication Fees of Notice of Sale	160.95
Court Appraisers' Fees	<u>225.00</u>
TOTAL	\$448,563.94
Less Credit of Appraised Value	- <u>70,000.00</u>
DEFICIENCY	\$378,563.94

plus interest on said deficiency judgment at the legal rate of _____ percent per annum from date of deficiency judgment until paid; said

deficiency being the difference between the amount of Judgment rendered herein and the appraised value of the property herein.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the United States of America on behalf of the U.S. Small Business Administration have and recover from Defendants, Reece Ezell, Jr. and Mary G. Ezell a/k/a Mary Gay Ezell, a deficiency judgment in the amount of \$378,563.94, plus interest at the legal rate of 4.02 percent per annum on said deficiency judgment from date of judgment until paid.

S/ THOMAS B. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

TONY M. GRAHAM
United States Attorney

PETER BERNHARDT, OBA #741
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

PB/esr

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 31 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

DON R. GIBSON,

Plaintiff,

vs.

LOUIS W. SULLIVAN, M.D.,
Secretary of Health and
Human Services,

Defendant.

No. 90-C-1058-B

O R D E R

This matter comes before the Court upon Defendant's objection to the Report and Recommendation of the United States Magistrate, herein entered on August 2, 1991.

Plaintiff filed the instant action pursuant to 42 U.S.C. §405(g) seeking a review of the decision of the Secretary of Health and Human Services. The matter was referred to the United States Magistrate, who recommended a reversal of the decision of the Secretary because the procedure followed by the Administrative Law Judge ("ALJ") violated both due process and procedural requirements of 42 USC §405(b)(1).

The Social Security Act entitles every individual who "is under a disability" to a disability insurance benefit. 42 U.S.C.A. § 423(a)(1)(D) (1983). "Disability" is defined as the "inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment." Id. § 423 (d) (1) (A). An individual

"shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work

experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work."

Id. § 423(d)(2)(A).

Under the Social Security Act the Claimant bears the burden of proving a disability, as defined by the Act, which prevents him from engaging in his prior work activity. Reyes v. Bowen, 845 F.2d 242, 243 (10th Cir. 1988); 42 U.S.C. § 423 (d) (5) (1983). Once the Claimant has established such a disability, the burden shifts to the Secretary to show that the claimant retains the ability to do other work activity and that jobs the Claimant could perform exist in the national economy. Reyes, 845 F.2d at 243; Williams v. Bowen, 844 F.2d 748, 751 (10th Cir. 1988); Harris v. Secretary of Health and Human Services, 821 F.2d 541, 544-45 (10th Cir. 1987). The Secretary meets this burden if the decision is supported by substantial evidence. Campbell v. Bowen, 822 F.2d 1518, 1521 (10th Cir. 1987); Brown v. Bowen, 801 F.2d 361, 362 (10th Cir. 1986).

The Secretary has established a five-step process for evaluating a disability claim. See, Bowen. v. Yuckert, 482 U.S. 137, 107 S.Ct. 2287, 96 L.Ed.2d 119 (1987). The five steps, as set forth in Reyes, v. Bowen, 845 F.2d at 243, proceed as follows:

- (1) A person who is working is not disabled.
20 C.F.R. § 416.920(b).
- (2) A person who does not have an impairment or combination of impairments severe enough to limit his ability to do basic work activities is not disabled. 20 C.F.R. § 416.920(c).
- (3) A person whose impairment meets or equals one

of the impairments listed in the "Listing of Impairments," 20 C.F.R. § 404, subpt. P, app. 1, is conclusively presumed to be disabled. 20 C.F.R. § 416.920(d).

- (4) A person who is able to perform work he has done in the past is not disabled. 20 C.F.R. § 416.920(e).
- (5) A person whose impairment precludes performance of past work is disabled unless the Secretary demonstrates that the person can perform other work available in the national economy. Factors to be considered are age, education, past work experience, and residual functional capacity. 20 C.F.R. § 416.920(f).

If at any point in the process the Secretary finds that a person is disabled or not disabled, the review ends. Reyes, 845 F.2d at 243; Talbot v. Heckler, 814 F.2d 1456, 1460 (10th Cir. 1987); 20 C.F.R. §416.920.

In the present case, the ALJ entered a decision at the fifth level of the sequence, determining the Plaintiff could perform the jobs of an assembly worker or parking lot attendant. The Plaintiff's hearing, at which the Plaintiff testified and was represented by counsel, occurred on September 27, 1989. Subsequent to the hearing, and without notifying the Claimant, the ALJ sent copies of the medical evidence to a vocational advisor and a medical advisor and asked the vocational advisor whether the Plaintiff could perform any jobs in the national economy, assuming he could do a full range of light work, limited by the need to alternate sitting and standing, and by the ability to read only very little. The ALJ made inquiry of the medical advisor regarding the severity of impairments. The advisors responded based solely

on information provided by the ALJ and without examining the Claimant. The vocational advisor reported that the Claimant could perform an assembly line job or work as a parking lot attendant. The medical advisor responded that the Claimant did not have an impairment that met the Appendix 1 Listing of Impairments.

The ALJ forwarded the reports to Plaintiff's attorney and advised him that he could submit written comments regarding the reports or submit additional evidence. Additionally, the ALJ allowed Plaintiff's attorney to submit ten interrogatories to the medical advisor. In both instances, the attorney responded, and the ALJ reopened the record to admit the vocational and medical reports as well as the written comments and interrogatories submitted by Plaintiff's attorney. Upon considering all the evidence in the record, the ALJ determined that Plaintiff was not disabled within the meaning of the Act.

Relying on Allison v. Heckler, 711 F.2d 145 (10th Cir. 1983), the Magistrate concluded that the ALJ procedure violated due process and statutory requirements of 42 U.S.C. § 405(b)(1). In Allison, the Court held that the ALJ's use of a post-hearing report constituted a denial of due process because the claimant was not given the opportunity to cross-examine the witness or rebut the report. Id. at 147. Moreover, the Court held use of such reports exceeded the Secretary's statutory authority because under the statute the Secretary is mandated to determine a claimant's disability on the basis of evidence adduced at the hearing. Id.

Defendant first objects to the Magistrate's conclusion that

Claimant's due process rights were violated because in this case, contrary to Allison, the ALJ gave Plaintiff the opportunity to rebut the reports, to submit additional evidence, and to submit written interrogatories to the medical advisor. The weight of the case law, however, does not agree with the Defendant's proposition that due process is satisfied when the Plaintiff has the opportunity to comment on post-hearing reports. Lonzollo v. Weinberger, 534 F.2d 712 ((7th Cir. 1976); Townley v. Heckler, 748 F.2d 109 (2nd Cir. 1984); Wallace v. Bowen, 869 F.2d 187 (3rd Cir. 1988); Demenech v. Secretary of DHHS, 913 F.2d 882 (11th Cir. 1990). In the cited cases, the claimants were given the opportunity to respond to the post-hearing evidence and to offer additional evidence. Yet, the Courts found a violation of due process. Lonzollo, 534 F.2d at 714; Townley, 748 F.2d at 114; Wallace, 869 F.2d at 191-92; Demenech, 913 F.2d at 885. In Wallace, the Court flatly rejected the argument that an opportunity to comment on and present additional evidence is sufficient under the statute, especially in cases where the evidence is medical, saying "effective cross-examination could reveal what evidence the physician considered or failed to consider in formulating his or her conclusions, how firmly the physician holds to those conclusions, and whether there are any qualifications to the physician's conclusions." Wallace 869 F.2d at 192.

The Court agrees with the Magistrate and the cases which hold that merely inviting a Claimant to comment on post-hearing evidence is an inadequate substitute for due process requirements.

This is especially true where, as here, the Claimant was not involved in the initial process, was not provided with exhibits relied upon by the advisors, and had no knowledge that the vocational expert assumed Plaintiff could perform "light work," precluding effective rebuttal or comment.

The Secretary also argues that the opportunity to submit interrogatories to the doctor was sufficient cross-examination under Allison. Whether written interrogatories are an adequate substitute for cross-examination depends upon the factual composition of each case. Where cross-examination is sought to illuminate bias on the expert's part, written interrogatories are insufficient. Solis v. Schweiker, 719 F.2d 301 (9th cir. 1983). Likewise, where the expert has not personally examined the claimant, written interrogatories are an inadequate substitute for cross-examination. Smith v. Weinberger, 356 F. Supp. 954 (D.C. C.D.Ca. 1973). Under the facts of this case, where the Claimant had no knowledge of the information relied on by the medical consultant, the Court finds use of interrogatories did not satisfy due process requirements.

The Secretary distinguishes Solis from the facts of this case and argues that the Plaintiff waived cross-examination of the advisors by not requesting a subpoena pursuant to 20 C.F.R. §404.950(d)(1), by not requesting cross-examination, and by not objecting to the use of the reports.

With respect to failure to request a subpoena under 20 C.F.R. §404.950(d)(2), cross-examination is not waived by a Claimant's

failure to request a subpoena since that regulation requires that request be made five days prior to the hearing date and thus does not confer a right to subpoena after the hearing date. Wallace v. Bowen, 869 F.2d 187 (3rd Cir. 1988).

With respect to failure to request cross-examination or object to the reports, there is no duty to inform a Claimant represented by counsel of Claimant's right to cross-examine authors of reports received after the close of a hearing. Hudson v. Heckler, 755 F.2d 781 (11th Cir. 1985), aff'd. on other grounds, Sullivan v. Hudson, 490 U.S. 877 (1989); Coffin v. Sullivan, 895 F.2d 1206 (8th Cir. 1990). However, a waiver to the right of cross-examination "must be clearly expressed or strongly implied from the circumstances." Lonzollo, 534 F.2d at 714; Wallace, 869 F.2d at 193; Tanner v. Secretary of DHHS, 932 F.2d 1110 (5th Cir. 1991). Clearly, a total failure to respond to post-hearing evidence when given the opportunity results in waiver. Coffin, 895 F.2d at 1212; Hudson, 755 F.2d at 785. Conversely, taking issue with the information provided to the experts, Tanner, 932 F.2d at 1113, as well as objecting to the use of post-hearing reports, Wallace, 869 F.2d at 107 is sufficient to preserve the right of cross-examination.

In the present case, Claimant's attorney, while not making express demand for cross-examination or objecting to the reports, never expressed a desire to forgo confrontation of the experts and did not expressly state he had no objection to the inclusion of the reports. He made comments to both reports and submitted interrogatories to the medical consultant. In his response to the

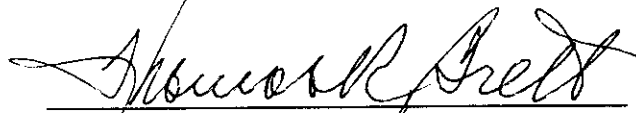
medical report, the attorney took issue with a finding there was no impairment when the doctor was not provided with diagnostic x-rays, myelograms, CT scans or MRI tests. In the response to the vocational expert's report, the attorney took issue with the fact that the Plaintiff was capable of light work. The Court finds that waiver in this instance was not clearly expressed or implied.

The Defendant also objects to the Magistrate's conclusion that use of post-hearing reports violated 42 U.S.C. §405(b)(1), which mandates the Secretary to determine a Claimant's disability "on the basis of evidence adduced at the hearing." "Hearing" is not defined by the Act, and the Court is not convinced that the proper focus should be on the technical determination of whether reopening the record to receive additional reports is "evidence adduced at the hearing." Rather, the focus should more properly be on the reason for such a requirement, which is that evidence adduced outside the hearing deprives the party against whom the evidence is offered the opportunity to confront, cross-examine, or otherwise rebut the evidence. The Secretary's argument that in this case reopening the record and allowing comment or rebuttal satisfies the Claimant's right to a decision based on "evidence adduced at the hearing" is not persuasive in light of the previous discussion concerning due process.

The Court agrees with the Magistrate's Findings and Recommendation that the procedure employed by the ALJ violated both due process and statutory requirements of 42 U.S.C. §405(b)(1) and the same is hereby adopted and affirmed. The Court concludes this

matter should be and the same is hereby REMANDED to the Secretary for proceedings not inconsistent with this order.

IT IS SO ORDERED THIS 27th day of January, 1992.

A handwritten signature in cursive script, reading "Thomas R. Brett", written over a horizontal line.

THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

entered
Almon, Clerk
FILED

JAN 21 1992

CLERK OF COURT
U.S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

WALTER RAY HARVEY,
Plaintiff,
vs.
WILEY BACKWATER, et al.,
Defendants.

No. 90-C-1001-C/

ORDER

Before the Court are the motion of the plaintiff for new trial and the motion of the plaintiff to alter or amend judgment. This action was tried to a jury, with only plaintiff's claim against defendant Dan Horne surviving directed verdict and being presented to the jury. On November 6, 1991, the jury returned a verdict in plaintiff's favor in the amount of \$3,000 actual damages and \$500 punitive damages. Judgment was entered on November 27, 1991.

In his motion for new trial, plaintiff argues that the damages awarded were inadequate under the evidence presented, and that the verdict was against the weight of the evidence. As to inadequacy, the standard is that

no abuse of discretion will be found unless the verdict is so inadequate "as to shock the judicial conscience and to raise an irresistible inference that passion, prejudice, corruption, or other improper cause invaded the trial." Absent such a showing of passion or prejudice, the jury's finding on damages is considered inviolate.

Black v. Hieb's Enterprises, Inc., 805 F.2d 360,
362 (10th Cir. 1986) (citations omitted).

The Court is not persuaded that the verdict is inadequate under this standard. Plaintiff contends that a note from the jury during deliberations as to "who compensates" plaintiff for certain damages demonstrates a compromise verdict. The Court does not agree. There is no evidence that the jury departed from the Court's instructions. Regarding the second aspect of the motion for new trial, "the inquiry focuses on whether the verdict is clearly, decidedly or overwhelmingly against the weight of the evidence." Black, 805 F.2d at 363. Again, the Court upon review concludes that the verdict should stand.

The Court now turns to the plaintiff's motion to alter or amend judgment. Plaintiff requests that the judgment also be assessed against the Board of County Commissioners of Mayes County, citing Brandon v. Holt, 469 U.S. 464 (1985). Brandon holds under its facts that a judgment against a public servant "in his official capacity" imposes liability on the entity that he represents, provided that the public entity receives notice of the action. Brandon does not stand for the proposition that the liability of the public entity is automatic. It is still necessary for a plaintiff to prove that the officer's actions were pursuant to an official policy or custom of -- in this instance -- the County. See Young v. City of Killeen, 775 F.2d 1349, 1351 (5th Cir. 1985). Plaintiff herein did not name the County as a party and presented no such evidence.

As an alternative ground, plaintiff cites 51 O.S. §162, which provides in pertinent part:

A. The state or any political subdivision, subject to procedural requirements imposed by this section, other applicable statute, ordinance, resolution or written policy, shall:


2. Pay or cause to be paid any judgment entered in the courts of the United States, the State of Oklahoma or any other state against any employee and/or political subdivision or settlement agreed to by the political subdivision entered against any employee, and any costs or fees, for a violation of property rights or any rights, privileges or immunities secured by the Constitution or laws of the United States which occurred while the employee was acting within the scope of employment.

In Houston v. Reich, 932 F.2d 883 (10th Cir. 1991), the Tenth Circuit held that, because a jury awarded punitive damages against two police officers (necessarily finding gross negligence or willful and wanton conduct), the officers acted outside the scope of their employment and that the cited statute was inapplicable. *Id.* at 889-890. Accordingly, the Judgment will not be amended on this basis either. Oddly, defendant Horne, in his response to this motion states that "the law does not support the Plaintiff's motion" but also states that "Defendant Horne is willing for the Court to assess the judgment in this case against Mayes County, Oklahoma." Horne is represented by the District Attorney's Office for Mayes County. The Court will follow the law as it sees it. If Mayes County wishes to pay the Judgment, that is a decision outside of this Court's jurisdiction.

It is the Order of the Court that the motion of the plaintiff for new trial is hereby denied.

It is the further Order of the Court that the motion of the plaintiff, Walter Ray Harvey, to alter or amend judgment is hereby denied.

IT IS SO ORDERED this 21st day of January, 1992.


H. DALE COOK
United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 21 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

SAMUEL K. JOHNSON,

Plaintiff,

vs.

OKLAHOMA EDUCATION ASSOCIATION,
and BARBARA SMITH, President,

Defendants.

Case No. 91-C-824-B

ORDER

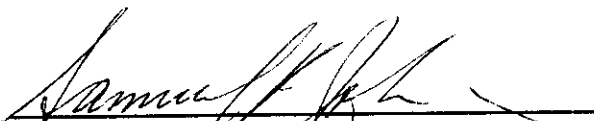
Upon the stipulation of the parties the above styled and
numbered cause is dismissed with prejudice.

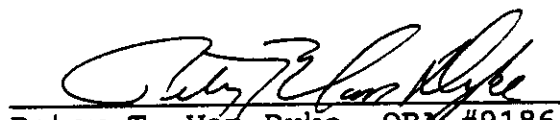
Dated this 31st day of December, 1991.

/s/ THOMAS A. BRETT

United States District Judge

APPROVED:


Samuel K. Johnson
3429 S. 94th E. Ave.
Tulsa, OK 74145


Peter T. Van Dyke, OBA #9186
Lytle Soule & Curlee
1200 Robinson Renaissance
119 North Robinson
Oklahoma City, OK 73102
(405) 235-7471

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

REYNALDO ROMERO,

Petitioner,

v.

WORKERS' COMPENSATION COURT
OF THE STATE OF OKLAHOMA,

Respondent.

No. M-1764-B ✓

FILED

JAN 21 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

O R D E R

Before the Court is the petition for writ of mandamus filed by the petitioner, Reynaldo Romero. The petitioner requests the Court to direct the respondent, the Workers' Compensation Court of the State of Oklahoma to accept the filing of his claim for payment for medical services provided an injured worker.

This Court has no power to issue the writ as this Court has no jurisdiction over petitioner's collection matter. As such, no writ can issue in aid of the Court's jurisdiction as required under 28 U.S.C. §1651(a).

The petition is, therefore, dismissed.

IT IS SO ORDERED, this 21st day of January, 1992.



THOMAS R. BRETT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LINDA S. BOLES n/k/a LINDA SUE
ROBERTSON; GREGORY JUSTIN
ROBERTSON; AMRE, INC.; UNION
MORTGAGE COMPANY, INC.;
COUNTY TREASURER, Tulsa County,
Oklahoma; and BOARD OF COUNTY
COMMISSIONERS, Tulsa County,
Oklahoma,

Defendants.

FILED

JAN 21 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

CIVIL ACTION NO. 91-C-738-B

JUDGMENT OF FORECLOSURE

This matter comes on for consideration this 21st day
of Jan., 1992. The Plaintiff appears by Tony M.
Graham, United States Attorney for the Northern District of
Oklahoma, through Phil Pinnell, Assistant United States Attorney;
the Defendants, County Treasurer and Board of County
Commissioners, Tulsa County, Oklahoma, appear by J. Dennis
Semler, Assistant District Attorney, Tulsa County, Oklahoma, who
claims no interest in the real property; and the Defendants,
Linda S. Boles n/k/a Linda Sue Robertson, Gregory Justin
Robertson, AMRE, Inc., and Union Mortgage Company, Inc., appear
not, but make default.

The Court, being fully advised and having examined the
court file, finds that the Defendant, Linda S. Boles n/k/a Linda
Sue Robertson, was served with Summons and Complaint on
December 10, 1991; that the Defendant, Gregory Justin Robertson,
was served with Summons and Complaint on December 10, 1991; that
the Defendant, AMRE, Inc., acknowledged receipt of Summons and

Complaint on October 18, 1991; that the Defendant, Union Mortgage Company, Inc., acknowledged receipt of Summons and Complaint on October 23, 1991; that Defendant, County Treasurer, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on September 26, 1991; and that Defendant, Board of County Commissioners, Tulsa County, Oklahoma, acknowledged receipt of Summons and Complaint on September 24, 1991.

It appears that the Defendant, County Treasurer, Tulsa County, Oklahoma, filed his Answer on October 10, 1991; that the Defendant, Board of County Commissioners, Tulsa County, Oklahoma, filed its Answer on October 10, 1991; and that the Defendants, Linda S. Boles n/k/a Linda Sue Robertson, Gregory Justin Robertson, AMRE, Inc., and Union Mortgage Company, Inc., have failed to answer and their default has therefore been entered by the Clerk of this Court.

The Court further finds that on April 11, 1990, Gregory Justin Robertson and Linda Sue Robertson a/k/a Linda Boles filed their voluntary petition in bankruptcy in Chapter 7 in the United States Bankruptcy Court, Northern District of Oklahoma, Case No. 90-00930-W, were discharged on July 31, 1990 and the case was closed on September 27, 1990.

The Court further finds that this is a suit based upon a certain mortgage note and for foreclosure of a mortgage securing said mortgage note upon the following described real property located in Tulsa County, Oklahoma, within the Northern Judicial District of Oklahoma:

Lot Four (4), Block Twenty-five (25),
MAPLEWOOD EXTENDED ADDITION to the City of
Tulsa, Tulsa County, State of Oklahoma,
according to the recorded plat thereof.

The Court further finds that on September 27, 1985, the Defendant, Linda S. Boles, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, her mortgage note in the amount of \$33,500.00, payable in monthly installments, with interest thereon at the rate of 11.5 percent (11.5%) per annum.

The Court further finds that as security for the payment of the above-described note, the Defendant, Linda S. Boles, executed and delivered to the United States of America, acting on behalf of the Administrator of Veterans Affairs, now known as Secretary of Veterans Affairs, a mortgage dated September 27, 1985, covering the above-described property. Said mortgage was recorded on September 30, 1985, in Book 4895, Page 1772, in the records of Tulsa County, Oklahoma.

The Court further finds that the Defendant, Linda S. Boles, made default under the terms of the aforesaid note and mortgage by reason of her failure to make the monthly installments due thereon, which default has continued, and that by reason thereof the Defendant, Linda S. Boles n/k/a Linda Sue Robertson, is indebted to the Plaintiff in the principal sum of \$32,782.56, plus interest at the rate of 11.5 percent per annum from March 1, 1990 until judgment, plus interest thereafter at the legal rate until fully paid, and the costs of this action in

the amount of \$38.00 (\$20.00 docket fees, \$18.00 fees for service of Summons and Complaint).

The Court further finds that the Defendants, County Treasurer and Board of County Commissioners, Tulsa County, Oklahoma, claim no right, title or interest in the subject real property.

The Court further finds that the Defendants, Linda S. Boles n/k/a Linda Sue Robertson, Gregory Justin Robertson, AMRE, Inc., and Union Mortgage Company, Inc., are in default and have no right, title or interest in the subject real property.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Plaintiff have and recover judgment in rem against the Defendant, Linda S. Boles n/k/a Linda Sue Robertson, in the principal sum of \$32,782.56, plus interest at the rate of 11.5 percent per annum from March 1, 1990 until judgment, plus interest thereafter at the current legal rate of 4.02 percent per annum until paid, plus the costs of this action in the amount of \$38.00 (\$20.00 docket fees, \$18.00 fees for service of Summons and Complaint), plus any additional sums advanced or to be advanced or expended during this foreclosure action by Plaintiff for taxes, insurance, abstracting, or sums for the preservation of the subject property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Defendants, Linda S. Boles n/k/a Linda Sue Robertson, Gregory Justin Robertson, AMRE, Inc., Union Mortgage Company, Inc. and the County Treasurer and Board of County Commissioners, Tulsa

County, Oklahoma, have no right, title, or interest in the subject real property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that an Order of Sale shall be issued to the United States Marshal for the Northern District of Oklahoma, commanding him to advertise and sell, according to Plaintiff's election with or without appraisal, the real property involved herein and apply the proceeds of the sale as follows:

First:

In payment of the costs of this action accrued and accruing incurred by the Plaintiff, including the costs of sale of said real property;

Second:

In payment of the judgment rendered herein in favor of the Plaintiff;

The surplus from said sale, if any, shall be deposited with the Clerk of the Court to await further Order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that from and after the sale of the above-described real property, under and by virtue of this judgment and decree, all of the Defendants and all persons claiming under them since the filing of the Complaint, be and they are forever barred and foreclosed of any right, title, interest or claim in or to the subject real property or any part thereof.

S/ THOMAS R. BRETT

UNITED STATES DISTRICT JUDGE

APPROVED:

TONY M. GRAHAM
United States Attorney

A handwritten signature in cursive script, appearing to read "Phil Pinnell", written over a horizontal line.

PHIL PINNELL, OBA #7169
Assistant United States Attorney
3600 U.S. Courthouse
Tulsa, Oklahoma 74103
(918) 581-7463

Judgment of Foreclosure
Civil Action No. 91-C-738-B

PP/esr

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

FILED

JAN 21 1992

Richard M. Lawrence, Clerk
U. S. DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

RETA TILLMAN, as parent and
next friend of Colette
Melkisetian, a minor,

Plaintiff,

vs.

FORD MOTOR COMPANY, a
Delaware corporation,

Defendant.

Case No. 91-C-659-B

ORDER GRANTING APPLICATION FOR A
DISMISSAL WITH PREJUDICE

Upon written application of the parties for an order of dismissal with prejudice of the complaint and all causes of action, the Court, having examined said application, finds that said parties have entered into a compromise settlement covering all claims involved in the complaint and have requested the Court to dismiss the complaint with prejudice to any future action, and the Court having been fully advised in the premises, finds that said complaint should be dismissed. It is, therefore,

ORDERED, ADJUDGED and DECREED by the Court that the complaint and all causes of action of the Plaintiff filed herein against the Defendant be and the same are hereby dismissed with prejudice to any further action.

DATED this 21 day of Jan., 1992.

S/ THOMAS R. BRETT

JUDGE, UNITED STATES DISTRICT COURT